

2009 (81R) SB 362, SENATE FLR DEBATE, 2ND READING

Transcribed by Lynne M. Rodriguez, CSR



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1 LIEUTENANT GOVERNOR DEWHURST: Members,
2 the Chair lays out on second reading Senate bill 362.
3 The Secretary will read the caption.

4 SECRETARY: Senate bill 362 relating to
5 requiring a voter to present proof of identification.

6 LIEUTENANT GOVERNOR DEWHURST: Senator
7 West, for what purpose do you rise, sir?

8 SENATOR WEST: Mr. President, I would
9 move for point of order.

10 LIEUTENANT GOVERNOR DEWHURST: State your
11 inquiry.

12 SENATOR WEST: Mr. President, I would
13 move for, that this bill not be considered pursuant to
14 Rule 7.09, more specifically the fiscal note rule that
15 we commonly refer to it, in that it violates the fiscal
16 rule.

17 Two things, there's been testimony during the
18 hearing that many of the core principles associated with
19 this bill were considered during the 80th legislative
20 session with a similar type bill.

21 In addition to that, I would raise the issue
22 for consideration specifically under 7.09(f), basically
23 saying that a fiscal note for a bill or joint resolution
24 which authorizes or requires expenditures of diversion
25 of any state funds for any purpose shall estimate the



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1 fiscal implications and probable cause of the measure
2 each year.

3 Yesterday in Finance, the finance committee
4 took up and passed a contingency rider for Senate bill
5 362, and for purposes of the record, let me read it in
6 here.

7 Contingent upon the passage of Senate bill
8 362, a similar legislation relating to requiring a voter
9 to present proof of identification by the 81th
10 legislature, regular session, the Secretary of State is
11 has appropriated two million dollars for fiscal year
12 2010 for the general revenue fund for voter education.

13 If indeed the testimony of the Secretary of
14 State is correct as relates to putting together the
15 fiscal note that LBB has provided for this particular
16 bill, that there's no fiscal implication, then the issue
17 of appropriating two million dollars is certainly
18 evidence that there is, in fact, a fiscal note, and thus
19 is violative of the particular rule that I just quoted,
20 and for those reasons, I would ask that this bill not be
21 considered.

22 LIEUTENANT GOVERNOR DEWHURST: Would you
23 approach the podium?

24 Senator West, after conferring with you,
25 several of the senators and the parliamentarian, Rule



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1 709, in my judgment, has been complied with. Therefore,
2 your point of order is overruled.

3 SENATOR WEST: Mr. President, is this the
4 appropriate time to ask that the point of order and also
5 the discussion be spread upon the journal?

6 LIEUTENANT GOVERNOR DEWHURST: Members,
7 Senator West moves to reduce to writing the testimony,
8 the comments by Senator West on the point of order. Is
9 there any objection?

10 SENATOR WEST: And the ruling also.

11 LIEUTENANT GOVERNOR DEWHURST: And the
12 ruling.

13 Is there any objection from any members of the
14 Chair? Hearing there's none, so ordered.

15 SENATOR WEST: Thank you, Mr. President.

16 SENATOR VAN DE PUTTE: Mr. President?

17 LIEUTENANT GOVERNOR DEWHURST: Senator
18 Van de Putte, for what purpose do you rise?

19 SENATOR VAN DE PUTTE: Parliamentary
20 inquiry, Mr. President.

21 LIEUTENANT GOVERNOR DEWHURST: State your
22 inquiry.

23 SENATOR VAN DE PUTTE: Mr. President,
24 Rule 5.14 (c) on the 81th legislative rules of the
25 Senate state that the Secretary shall prepare a list of



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1 all legislation for which notice has been given and the
2 list must be made available to each member of the Senate
3 and to the President no later than 6:30 on the day the
4 notice is filed.

5 Is this such notice the Notice of Intent?

6 LIEUTENANT GOVERNOR DEWHURST: Senator
7 Van de Putte, what's you're holding or what you just
8 showed is the intent calendar.

9 SENATOR VAN DE PUTTE: Mr. President,
10 parliamentary inquiry.

11 LIEUTENANT GOVERNOR DEWHURST: State your
12 inquiry.

13 SENATOR VAN DE PUTTE: Is a bill that
14 results from a report of the committee as a whole
15 subject to the intent calendar and Rule 5.14 (c)?

16 LIEUTENANT GOVERNOR DEWHURST: Senator
17 Van de Putte, if a bill is part of the regular order of
18 business and a Senator wishes to suspend the regular
19 order of business, then the Senator must give notice
20 pursuant to Rule 5.14 (c).

21 SENATOR VAN DE PUTTE: Parliamentary
22 inquiry, Mr. President.

23 LIEUTENANT GOVERNOR DEWHURST: State your
24 inquiry.

25 SENATOR VAN DE PUTTE: Is the Texas



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1 Senate agenda aligned with the Notice of Intent for
2 March 17, 2009?

3 LIEUTENANT GOVERNOR DEWHURST: Senator
4 Van de Putte, the Notice of Intent is typically included
5 in the green book.

6 SENATOR VAN DE PUTTE: Mr. President,
7 parliamentary inquiry.

8 LIEUTENANT GOVERNOR DEWHURST: State your
9 inquiry.

10 SENATOR VAN DE PUTTE: If a Texan sitting
11 at home or looking at the proceedings of the Senate by
12 the either Texas Senate agenda or Notice of Intent,
13 would those citizens have any notification of the Senate
14 bill before us today?

15 LIEUTENANT GOVERNOR DEWHURST: Senator
16 Van de Putte, the answer is yes and yes. Senate bill
17 362 is listed on page 27 of the green book and it is
18 listed online.

19 SENATOR VAN DE PUTTE: Thank you,
20 Mr. President.

21 LIEUTENANT GOVERNOR DEWHURST: Thank you,
22 Senator Van de Putte.

23 Senator Fraser, do you wish to say anything or
24 go directly to amendments?

25 SENATOR FRASER: Mr. Chairman, I'd like



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1 to lay out the first amendment.

2 LIEUTENANT GOVERNOR DEWHURST: The Chair
3 lays out Floor Amendment Number 1 for Senator Fraser.
4 The secretary will read the amendment.

5 SECRETARY: Floor Amendment Number 1 by
6 Fraser.

7 LIEUTENANT GOVERNOR DEWHURST: The Chair
8 recognizes Senator Fraser to explain Floor Amendment
9 Number 1.

10 SENATOR FRASER: And if you don't mind,
11 I'd like to make sure they got the right one.

12 Last Tuesday night, when we were having the
13 testimony in the committee of the whole, Senator Van de
14 Putte and I had a conversation regarding the voter
15 registration certificate being required under this
16 legislation, and I think that the point she made was
17 valid in that it is the intent that I have an either/or,
18 either they can show a photo, a form of photo
19 identification or two other types of identification,
20 which could be a utility bill and a library card.

21 The way the language in the bill was written,
22 it implied you had to have your voter registration card
23 and two other forms of identification, and I told her
24 then that was not my intent by this amendment.

25 I'm hopefully correcting that, and I think I



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1 had advised Senator Van de Putte that I was laying it
2 out. I think she's looked at it. I suspect she would
3 have a comment, so that's what that amendment does.

4 LIEUTENANT GOVERNOR DEWHURST: Senator
5 Whitmire?

6 SENATOR WHITMIRE: Would the gentleman
7 yield?

8 LIEUTENANT GOVERNOR DEWHURST: Will
9 Senator Fraser yield to Senator Whitmire?

10 SENATOR FRASER: I would love to yield.

11 SENATOR WHITMIRE: Thank you, Senator
12 Fraser. Even if we adopt this proposed amendment, isn't
13 it still going to be true, under the legislation that we
14 just took up, that you will actually be able to go vote
15 without a picture ID? You're going to be able to use
16 these other documents, such as a government letter or
17 library card. So all the time and effort you've spent
18 on what is called the voter ID, you're still going to be
19 able to go vote without producing a photo of the person
20 actually voting.

21 SENATOR FRASER: It is the beauty of the
22 legislation that I'm laying out that we have a relief
23 valve, is that we believe that the bulk, the
24 overwhelming number of people that have a photo ID will
25 use that, but if there is someone that doesn't have



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1 that, we give them the ability to use other forms of
2 identification.

3 SENATOR WHITMIRE: Well, the point I'm
4 making is you still haven't solved the problems that you
5 alluded to during the all-night session, particularly
6 your brother coming and voting right after you did with
7 your ID.

8 I mean, really, if you believe people are
9 impersonating someone else, I would suggest that you
10 still haven't fixed that problem.

11 So why are you holding us up with such a
12 banner piece of legislation to all that were interested
13 and saying that you will never be able to impersonate
14 someone because now you're going to have to prove who
15 you are? No, all you got to do is get creative, is it
16 not true, and have a library card, a utility bill and
17 just know how to fraudulently use that.

18 SENATOR FRASER: I think you just made my
19 point that we have voter fraud that is happening all
20 over the state, and I appreciate you making that point
21 --

22 SENATOR WHITMIRE: I'm not arguing for
23 the bill, you understand. I'm trying to say you got a
24 big old gap in it, and, in fact, voter impersonation has
25 never been shown to be a problem. Your real problem is



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1 met with mail-in ballots, which you don't address at all
2 in this legislation, so it's just some of the
3 communication we've had in the office with constituents
4 point out, very properly, that you can hold this up as a
5 voter ID, that it's going to stop impersonation, but, in
6 fact, it's not.

7 All it's going to do, as these constituents
8 notify me, is make it impossible for seniors, people
9 that are mobile, people that have changed address and do
10 not have these other documents that you allow them to
11 use, you're creating major obstacles for people who
12 otherwise would be able to go vote, and we'll discuss it
13 in more detail in a moment, but I just want to clear up
14 for the record, you're still not going to require
15 someone to absolutely prove who they are in terms of a
16 photo matching the voter certificate.

17 SENATOR FRASER: As President Carter
18 said, the system we have today, it's easy to cheat. I'm
19 trying to move a step toward, and realistically, we're
20 only addressing one small part of a --

21 Just a second, I'm in the middle of a
22 statement here.

23 SENATOR WEST: Oh, I'm sorry.

24 SENATOR FRASER: I allowed you the chance
25 to talk. We're only addressing a very small part of a



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1 huge problem. We're taking a step in the right
2 direction, but for you to say that because it doesn't go
3 all the way of fixing everything, we shouldn't try to
4 fix it, it's no different than we do in all legislation
5 down here, is that sometimes you have to take small
6 steps to get to the end result, and yes, I'd love to be
7 able to fix all the fraud that we believe is happening,
8 and I'm only addressing a portion of that, and that I
9 think --

10 It sounds to me like what you're promoting is
11 the Indiana law that would put in a strict voter ID, and
12 if you want to offer up that amendment, that would be
13 great.

14 SENATOR WHITMIRE: I'm not promoting that
15 at all, because I don't think that you have proven that
16 impersonation and fraud exists, and I'll discuss it in
17 my talks in a moment, and I didn't intend to debate you
18 this morning, but I do have a couple follow-up questions
19 that I meant to ask you.

20 You keep referencing Jimmy Carter as kind of
21 your role model. I'm just curious, did you vote for him
22 when he ran for president?

23 SENATOR FRASER: I respect him for being
24 a peanut farmer.

25 SENATOR WHITMIRE: Okay, so you didn't



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1 vote for him but now you're using him as your most
2 credible source.

3 Also, let me ask you another thing as you're
4 friend? How long have you been in the legislature?
5 You've been in the Senate what, 15 years?

6 SENATOR FRASER: I know that I've been
7 here at least the last two years. I can remember that
8 far back.

9 SENATOR WHITMIRE: More than 10; 5 in the
10 House. When did you realize this was a problem? And
11 you've served many good sessions. Why didn't you
12 introduce a measure look this in previous years? Why
13 now? I'm just curious.

14 SENATOR FRASER: It's interesting you
15 bring that up. In 1996, the Dallas morning news did a
16 guest editorial calling for photo ID because they were
17 having massive voter fraud in Dallas County. They
18 stepped out front. So this is not an issue that just
19 all of a sudden popped up. This goes all the way back
20 to the problems we've had.

21 SENATOR WHITMIRE: What took you so
22 long? If it was in '96 that they brought you to this
23 attention, did the problem go away or they didn't take
24 it that serious or it wasn't a credible issue? I mean,
25 what's happened in the last two sessions that this is



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1 such a high priority for you and others?

2 SENATOR FRASER: It's like all issues,
3 that there's a lot of issues that come up and material
4 with time, and I believe that this is an issue whose
5 time has come.

6 SENATOR WHITMIRE: Well, I respectfully
7 disagree and I'll speak in more depth in a moment.
8 Thank you.

9 LIEUTENANT GOVERNOR DEWHURST: Senator
10 Van de Putte, nor what purpose do you rise?

11 SENATOR VAN DE PUTTE: To ask the author
12 of the amendment a few questions.

13 LIEUTENANT GOVERNOR DEWHURST: Will
14 Senator Fraser yield to Senator Van de Putte?

15 SENATOR FRASER: I would love to yield.

16 SENATOR VAN DE PUTTE: Thank you,
17 Mr. President. Thank you, Senator Fraser. Happy
18 St. Patrick's Day.

19 SENATOR FRASER: Thank you. I had to do
20 a plan B here. I'm not sure -- you know, as I said, you
21 know, I did have green on but you couldn't see it.

22 SENATOR VAN DE PUTTE: Senator Fraser,
23 with respect to Amendment Number 1, this came as a
24 result of my reading of the bill last Tuesday, when I
25 questioned as the bill was written or is written without



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1 the amendment, there is what I call you either have to
2 have a twofer or a threefer. According to the bill that
3 was voted on last week, you would have to have a voter
4 certificate issued by your registrar in the county, plus
5 a photo identification. If you didn't have either one
6 of those, then it would default and you would have to
7 have two more of the items that you listed as
8 alternative forms of proof.

9 So if the bill, as written, without this
10 amendment, even if you showed up with your driver's
11 license, you still would have to prove and get two other
12 pieces of identification, right, and this corrects that?

13 SENATOR FRASER: We believe that it
14 corrects that problem.

15 SENATOR VAN DE PUTTE: Okay. And so in
16 each part of the section here, I think the most
17 important was, and that was what I questioned last week,
18 was that on page one, we didn't have an "Either," an
19 "Either," so that this way, if someone does go to the
20 polls with a photo identification, they do not have to
21 prove to others if it's in that list of photo
22 identifications, is that correct?

23 SENATOR FRASER: It's basically following
24 what we use in current law, and I would use, as I very
25 rarely take my voter registration card, I walk in, they



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1 have me on the list, I show them my driver's license
2 with my picture and my address. The address matches
3 what's on the list. My signature matches when I sign
4 it, so that would stay as it is now.

5 SENATOR VAN DE PUTTE: Now under this
6 amendment or incorporated into the body of the bill, if
7 a voter presents at a voting location with a driver's
8 license or photo identification, can election judge or
9 clerk demand two other proofs of identification if that
10 judge does not think that the photo ID matches up with
11 the person presenting to vote?

12 SENATOR FRASER: I'm sorry, the question
13 is if they show a photo ID?

14 SENATOR VAN DE PUTTE: Uh-huh.

15 SENATOR FRASER: And they can't verify
16 from the vote ID that that is the correct person? Is
17 that the question you're asking?

18 SENATOR VAN DE PUTTE: Yes.

19 SENATOR FRASER: One second.

20 Would you repeat your question?

21 SENATOR VAN DE PUTTE: Yes, Senator
22 Fraser. My question is, should a voter present at a
23 polling location with a photo identification as
24 prescribed in your bill, does the election judge or
25 clerk, because sometimes it's the clerk, not



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1 particularly the head judge that is intake for the
2 voters, can either the election judge or clerk demand
3 two other proofs of identification if the election judge
4 or clerk suspects that, or the picture doesn't match up,
5 under your bill, what authority does the election judge
6 or clerk have?

7 SENATOR FRASER: The bill, if someone
8 uses this form of identification, would go back to
9 current law, and the current law is the Secretary of
10 State educates the election judge and the election judge
11 then would make a determination.

12 SENATOR VAN DE PUTTE: I understand
13 that. My question is, does the election judge or clerk,
14 under your bill, even when a voter presents with photo
15 identification, have the authority to demand the two
16 other forms of identification prescribed in your bill?

17 SENATOR FRASER: The answer to your
18 question is that, that no. You know, if someone
19 presents an ID and they can't confirm it, there is a
20 fall-back position for the election judges to determine,
21 is this, you know, the person, and that's provided under
22 current law. My bill doesn't impact that.

23 SENATOR VAN DE PUTTE: So current law
24 would reaffirm the right of the voter to cast a
25 provisional ballot or does the judge have the authority



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1 to ask for more identification?

2 SENATOR FRASER: My amendment is very
3 straight forward. The amendment that I'm offering
4 clarifies that the threefer that you talked about
5 addressed that, and that's what I'm addressing in this
6 amendment.

7 SENATOR VAN DE PUTTE: With this
8 amendment though, from what I understand, the bill had
9 required the two, but now if, with your amendment, when
10 they present with just a photo ID, my question was, does
11 the election judge have the authority though, with your
12 amendment, which is just, I think, clarifying, but
13 embedded in the body of the bill, does the election
14 judge have the authority to ask that voter to cast a
15 provisional ballot and then return with the two other
16 forms of ID provided in your bill?

17 SENATOR FRASER: The amendment that I'm
18 laying out addresses the fact that we're not asking for
19 three forms of identification for the alternate means.

20 SENATOR VAN DE PUTTE: I will ask my
21 question at the appropriate time after the amendment is
22 adopted, because I understand that -- but my question
23 still remains, with or without the amendment, what is
24 the authority of the election judge or clerk to ask for
25 subsequent proofs of identification should the photo,



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1 the election judge or clerk not think that it match up.

2 Thank you, Senator Fraser. I appreciate
3 you catching this. When I read the bill, I thought that
4 that indeed was the case and I was very frightened of
5 the effect if all of my colleagues voted on a bill that
6 required every single Texan casting a vote to have both
7 pieces of documentation, and in the absence of either
8 the certificate or the photo ID, then have to go to a
9 three, to get two more. I think that would have been a
10 terrible burden. It's a terrible burden on certain
11 classes of people. It would also be a terrible burden
12 for all Texans, and I appreciate I correcting this with
13 your amendment. Thank you, Senator Fraser.

14 LIEUTENANT GOVERNOR DEWHURST: Thank you,
15 Senator Van de Putte.

16 Senator Shapleigh, for what purpose do you
17 rise, sir?

18 SENATOR SHAPLEIGH: Some questions of the
19 author of the amendment.

20 LIEUTENANT GOVERNOR DEWHURST: Will
21 Senator Fraser yield to Senator Shapleigh?

22 SENATOR FRASER: I will yield.

23 SENATOR SHAPLEIGH: Senator, I'm trying
24 to follow along on this amendment on lines 15, 16, 17 of
25 your amendment, where you're amending Section 10 of the



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1 bill, so I'm over here on Section 10, page 3, line 21,
2 so we're inserting, right after the number 1 on the bill
3 that's in our bill book, the words, "The voter's voter
4 registration certificate or," and then you begin to list
5 these documents.

6 So as I understand it, with your amendment,
7 any one of those documents suffices?

8 SENATOR FRASER: Why don't you ask your
9 question again.

10 SENATOR SHAPLEIGH: Okay, I'm trying to
11 understand how the words in your amendment fit into the
12 bill in our bill book, and so I'm looking at lines 15,
13 16, 17 of the floor amendment, where you are amending,
14 on page 3 of the bill, line 21, you're inserting some
15 words there, and the words that you insert are, "The
16 voter's voter registration certificate or," and then we
17 go into a laundry list of different documents that would
18 suffice under your amended bill.

19 So as I understand your amendment, if you
20 bring a voter registration certificate or a copy of a
21 current utility bill or a bank statement or a government
22 check or a paycheck or other government document that
23 shows the name and address of the voter, then that's
24 what you're requiring with this amendment. So in
25 theory, am I right in saying that you that if you show



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1 up a with voter's voter registration certificate, you
2 can vote?

3 SENATOR FRASER: The answer is no.

4 SENATOR SHAPLEIGH: The answer is no.

5 SENATOR FRASER: You couldn't just show
6 up with a voter registration card and vote?

7 SENATOR SHAPLEIGH: Could you say that
8 again?

9 SENATOR FRASER: If someone, under the
10 terms of 362, show up with a voter registration card on
11 them, they would not be allowed to vote.

12 SENATOR SHAPLEIGH: They would not be
13 allowed to vote?

14 SENATOR FRASER: I'm sorry, I'm going to
15 need to retract that. Everyone that comes will be
16 allowed to vote before they leave. I'll retract what I
17 just said. Everyone coming, if they don't have the
18 other forms, they would vote a provisional ballot and
19 then it would have to be determined that they are who
20 they say they are.

21 SENATOR SHAPLEIGH: So with this section
22 of your amendment where you're inserting those words,
23 "Voter's voter registration certificate or," you're
24 still requiring some other ID under what you're doing
25 here?



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1 SENATOR FRASER: Two non-photo pieces of
2 identification if they don't have --

3 If they don't have their voter registration
4 card, they would either show a -- you show a photo ID to
5 vote or you can show two other non forms.

6 SENATOR SHAPLEIGH: Okay. I'm hoping as
7 this goes through the process, and I think I understand
8 what you're trying to do to change the threefer to make
9 it a photo plus vote, I'm not sure your amendment does
10 that.

11 SENATOR FRASER: If you got a correction
12 that makes it clearer --

13 SENATOR SHAPLEIGH: No, I don't have any
14 corrections to it, but I think if you're trying to get
15 where you're trying to get, I'm not sure that amendment
16 gets you there.

17 SENATOR FRASER: I believe this amendment
18 was drawn by legislative counsel, so I think they
19 believe that it accomplishes that, but if you read it
20 differently, it is my intent that someone would be
21 allowed to vote with two additional, but it would not be
22 three, not the voter registration card and two
23 additional.

24 SENATOR SHAPLEIGH: Okay. Thank you.

25 SENATOR FRASER: They would not be



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1 required three.

2 SENATOR SHAPLEIGH: Thank you, Senator.

3 LIEUTENANT GOVERNOR DEWHURST: Members,
4 Senator Fraser moves the adoption of Floor Amendment
5 Number 1. The Secretary will call the roll.

6 SECRETARY: Averitt, Carona, Davis.
7 Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos,
8 Harris, Hegar, Hinajosa, Huffman, Jackson, Lucio,
9 Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro,
10 Shapleigh, Uresti, Van de Putte, Watson, Wentworth,
11 West, Whitmire, Williams and Zaffirini.

12 LIEUTENANT GOVERNOR DEWHURST: Members,
13 there being 31 "I's" and no "Nay's", Floor Amendment
14 Number 1 is adopted.

15 The Chair lays out Floor Amendment Number
16 2 by Senator Fraser. The Secretary will read the
17 amendment.

18 SECRETARY: Floor Amendment Number 2 by
19 Fraser.

20 LIEUTENANT GOVERNOR DEWHURST: The Chair
21 recognizes Senator Fraser to explain Floor Amendment
22 Number 2.

23 SENATOR FRASER: Mr. President, members,
24 I now lay out Floor Amendment Number 2. Allow me to
25 explain.



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1 Members, in the discussion, again, on Tuesday
2 night, a lot of discussion about voter education and the
3 intent of the bill. The Secretary of State, in their
4 testimony, clarified two points. One is that there is
5 an ongoing voter education that has been going on for
6 the last several years that was a HAVA grant that came
7 from the federal government of nine million dollars.

8 Last year, the Secretary of State testified
9 that they spent three million of that nine in voter
10 education. Sitting in reserve in the Secretary of
11 State's fund from HAVA, there is two million dollars
12 that they verified that they believe can be eligible for
13 this. Now they have to make a request of the federal
14 government to use that funding. So this amendment that
15 I'm offering clarifies that the election officials at
16 the Secretary of State would make a request to have that
17 two million dollars in HAVA Funds remaining use for
18 these efforts.

19 LIEUTENANT GOVERNOR DEWHURST: Senator
20 Zaffirini, for what purpose do you rise, ma'am?

21 SENATOR ZAFFIRINI: To ask the author a
22 question.

23 LIEUTENANT GOVERNOR DEWHURST: Will
24 Senator Fraser yield to Senator Zaffirini?

25 SENATOR FRASER: Sure will.



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1 SENATOR ZAFFIRINI: Thank you,
2 Mr. President. Senator Fraser, I'm looking at the bill
3 and see what you're doing is adding a paragraph to that
4 Section 31.012. The first paragraph seems to be
5 identical, is that right?

6 SENATOR FRASER: If you'll hold on a
7 second.

8 SENATOR ZAFFIRINI: On page 1, line 20 is
9 where Section 2 starts.

10 SENATOR FRASER: One second. Okay.
11 Yes. Page 1, Section 2.

12 SENATOR ZAFFIRINI: Line 20.

13 SENATOR FRASER: Yes.

14 SENATOR ZAFFIRINI: And your amendment
15 includes lines 6 through 11, that seem to be identical
16 with the bill we have before us, so what you're doing is
17 adding sub-paragraph B, is that correct?

18 SENATOR FRASER: I believe that is
19 correct.

20 SENATOR ZAFFIRINI: How does that differ,
21 Senator? How does this change the bill?

22 SENATOR FRASER: It doesn't change the
23 bill, it just clarifies, and also based the testimony of
24 the Secretary of State that there's two million dollars
25 in funds that are left from HAVA, they have an ongoing



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1 voter registration and it would clarify that they --
2 after the passage of the bill, we would make a request
3 that they request the federal government to use that two
4 million of HAVA funds for voter education.

5 SENATOR ZAFFIRINI: But in your
6 amendment, on line 17 of your amendment, you establish a
7 statewide effort to education voters. Is that something
8 new or was that the intent of the bill as filed?

9 SENATOR FRASER: My amendment that I'm
10 looking at doesn't have a line 17.

11 SENATOR ZAFFIRINI: If you look at the
12 amendment that was just distributed.

13 SENATOR FRASER: The one that was passed
14 out has it. I'm sorry. Would you ask your question
15 again, please?

16 SENATOR ZAFFIRINI: Yes. On line 17, you
17 establish a statewide effort to educate voters, and my
18 question is, is this consistent with the legislative
19 intent of the bill as filed or is this in addition to
20 the bill?

21 SENATOR FRASER: No, this is ongoing --
22 this, as I laid out in my amendment, the Secretary of
23 State spent three million in last year in voter
24 education as part of the charge of the Secretary of
25 State. We want to make sure that all voters are



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1 educated. If they spent three million last year,
2 there's two million left in that fund and we would ask
3 that they make a request to the federal government.

4 SENATOR ZAFFIRINI: Thank you, Senator.
5 Going back to the bill that we have before us, I'm
6 looking at the fiscal note now.

7 SENATOR FRASER: Yes.

8 SENATOR ZAFFIRINI: And it is the same,
9 and the main thrust of it is, quote, "No fiscal
10 implication to the state is anticipated."

11 You may recall, Senator, that I questioned the
12 fiscal note several times last week.

13 SENATOR FRASER: Yes, you did.

14 SENATOR ZAFFIRINI: In different
15 situations. And one of the things we noted is that the
16 Secretary of State would have to spend money and that
17 there certainly was a fiscal implication to the state.

18 Is this amendment that you're offering at this
19 point meant to clarify that position?

20 SENATOR FRASER: Senator, as you know, as
21 someone that has been on Finance and on the conference
22 committee for years, that the fiscal notes come from the
23 Legislative Budget Board. Legislative Budget Board
24 talks to people that potentially impact on the bill as
25 filed. The bill, as filed, they gave us a fiscal note



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1 and the note said no fiscal impact.

2 SENATOR ZAFFIRINI: But the bill hasn't
3 changed until this point. The bill that's filed is
4 still the bill before us, with the exception of the
5 amendments that we are consider today.

6 SENATOR FRASER: That's correct.

7 SENATOR ZAFFIRINI: So the fiscal note
8 would still apply.

9 SENATOR FRASER: Yes.

10 SENATOR ZAFFIRINI: Before the amendment?

11 SENATOR FRASER: Yes.

12 SENATOR ZAFFIRINI: Yesterday in the
13 Senate Finance Committee, Senator Ogden surprised us by
14 presenting a contingency rider for your bill, Senator.
15 Were you aware that he was offering that contingency
16 rider?

17 SENATOR FRASER: Was I aware that he was
18 offering it?

19 SENATOR ZAFFIRINI: Before he offered it.

20 SENATOR FRASER: We have had discussions
21 the last couple of days about if funds were needed, that
22 he is sympathetic that if funds are needed, yes.

23 SENATOR ZAFFIRINI: Well, basically if I
24 recall correctly, and I'm subject to correction if
25 somebody remembers otherwise, but if I recall correctly,



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1 he said that he listened to the debate and that he
2 believed that we were right and that there would be
3 fiscal implications to the state, and that that's why he
4 was offering that contingency rider relative to your
5 bill, which I must admit it's very rare for someone to
6 offer a contingency rider for an author of a bill
7 instead of for his or her own, unless he's doing it on
8 behalf of that author, and that's why I wanted to know
9 if you knew ahead of time that he was going to offer
10 that contingency rider.

11 SENATOR FRASER: He's your chairman and
12 you sit beside him and I wouldn't attempt to say what
13 he's trying to do.

14 SENATOR ZAFFIRINI: And I'm sure he'll
15 come back later. But my concern yesterday, Senator, is
16 that while Senator Ogden's contingency rider addressed
17 the issue of the Secretary of State's spending, he did
18 not address the issue of the Department of Public Safety
19 spending any money, and is your position still that the
20 Department of Public Safety can absorb all the costs
21 related to voter identification, including providing
22 free voter identification materials?

23 SENATOR FRASER: As the author of the
24 bill, I lay out the bill, the Legislative Budget Board
25 does the research of the potential cost. They came back



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1 with no significant cost. My position is I read no
2 significant cost.

3 SENATOR ZAFFIRINI: So you will accept
4 that position. And Senator Fraser, earlier you said,
5 earlier in the week, you said you had not considered the
6 expenses related to a pre-clearance process before the
7 Department of Justice.

8 SENATOR FRASER: I'm sorry; what did you
9 just say?

10 SENATOR ZAFFIRINI: It was my
11 understanding that when we discussed this bill earlier,
12 that you had not considered -- I believe you said in
13 response to questions, that you had not considered the
14 expenses related to pre-clearance or to a lawsuit
15 related to this bill.

16 SENATOR FRASER: I'm sorry, Senator, the
17 middle part of that sentence, I still haven't gotten
18 what you've said. You said I have not considered
19 something about the Justice Department.

20 SENATOR ZAFFIRINI: The expenses of the
21 state related to the pre-clearance process.

22 SENATOR FRASER: Expenses or? I'm
23 missing --

24 SENATOR ZAFFIRINI: Or the lawsuit, or
25 the lawsuit that is likely to follow.



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1 SENATOR FRASER: The expenses or the
2 lawsuit?

3 SENATOR ZAFFIRINI: Yes. And is that
4 still true today, you still not have considered any
5 expenses that we expect to be encumbered by the state of
6 Texas to deal with the pre-clearance process and with
7 the lawsuit that is expected to be filed if this bill is
8 passed?

9 SENATOR FRASER: I file the bills, the
10 bill, as we always do. Legislative Budget Board comes
11 up with a fiscal note. The fiscal note says there's no
12 impact.

13 SENATOR ZAFFIRINI: But I'm not asking
14 about the fiscal note now. I'm asking if you have
15 considered those expenses?

16 SENATOR FRASER: I am taking it one step
17 at a time, that my job is to try to, this morning, to
18 get this off the Senate floor.

19 SENATOR ZAFFIRINI: Thank you, Senator.
20 I've also noticed that you are citing several
21 amendments. One in particular responds to Senator Van
22 de Putte's questions, and I appreciate that. During our
23 debate earlier, I asked you about the student
24 identification card and why your bill would accept what
25 you described as student identification cards issued by



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1 a public institution of higher education but not by a
2 private institution of public education. Do you intend
3 to offer any amendments related to that issue?

4 SENATOR FRASER: Senator, probably not.
5 I'm open to discussion, but a public institution,
6 because it is a, you know, a government or quasi
7 government entity, we have control over, you know, the
8 quality or the validity of that. We have no controls
9 over the validity that would be offered by someone
10 else. So if someone is going to offer something, we
11 have to know that the information or have some
12 confidence that that information is correct.

13 SENATOR ZAFFIRINI: Thank you, Senator
14 Fraser, and if you will indulge me to ask a question of
15 the presiding officer.

16 PRESIDENT: Senator Zaffirini, for what
17 purpose?

18 SENATOR ZAFFIRINI: Thank you,
19 Mr. President. For the purpose of a very personal
20 introduction.

21 PRESIDENT: You're recognized.

22 SENATOR ZAFFIRINI: Thank you,
23 Mr. President. Mr. President and members, it is my
24 pleasure to introduce to you a very special page who is
25 with us today. This is Brennan Morter from Laredo,



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1 Texas. His mother, Katrina, is with us today, and she
2 is my niece and God-daughter, and they are with my
3 sister, Celisa Pappas Borchert, who is Brennan's
4 grandmother. My son Carlos, who many of you, know is
5 his God-father, so you can see there are many inter-
6 relationships.

7 Brennan is a second grader at United Day
8 School. His hero is Spiderman. He's a Cub Scout and a
9 student athlete and he is with us today celebrating his
10 birthday. He turned eight years old yesterday, but he
11 decided to come to the Texas Senate and work with us and
12 see us in action.

13 Thank you, Mr. President and members. Please
14 join me in welcoming Brennan Morter, our very special
15 Senate page today. Thank you.

16 (Clapping.)

17 PRESIDENT: Thank you, Senator
18 Zaffirini. We welcome your guest.

19 The Chair at this time --

20 Senator Van de Putte, for what purpose?

21 SENATOR VAN DE PUTTE: Thank you,
22 Mr. President. To ask the author of the amendment a
23 question.

24 PRESIDENT: Will author yield? Senator
25 Fraser, will you yield for a question?



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1 SENATOR FRASER: I'll be glad to yield.

2 SENATOR VAN DE PUTTE: Thank you,
3 Mr. President. Thank you, Senator Fraser. I'm looking
4 at the amendment and Section B of the 31.012 on -- it
5 says, "The Secretary of State, in cooperation with the
6 appropriate non-profit organizations, as determined by
7 the Secretary of State and with each party's nominee for
8 governor in the most recent gubernatorial general
9 election received 20 percent or more."

10 If, Senator Fraser, we had two gubernatorial
11 candidates that listed on their party affiliation
12 independent, how do you foresee the Secretary of State
13 giving the independent party part of the statewide
14 efforts to educate voters?

15 SENATOR FRASER: The amendment is very
16 clear. The intent is that any -- any party that
17 received 20 percent or more of votes, there would be an
18 effort by the Secretary -- the Secretary of State would
19 monitor that and would set up the policies.

20 SENATOR VAN DE PUTTE: Senator Fraser, a
21 follow-up question. Were you aware that Governor Perry
22 received 39.02 percent of the vote as the nominee from
23 the Republican party in the most recent gubernatorial
24 election?

25 SENATOR FRASER: Yes.



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1 SENATOR VAN DE PUTTE: And were you aware
2 that Chris Bell received 29.78 percent of the vote in
3 the prior gubernatorial, representing -- he was the only
4 Democrat on the ticket for that particular position?

5 SENATOR FRASER: Yes.

6 SENATOR VAN DE PUTTE: My question is
7 that, Mr. Kinky Friedman received 12.44, running as an
8 independent, but also Ms. Strayhorn received 18.1
9 percent. Since both of those were listed as
10 independents and they meet the 20 percent threshold
11 listed in your amendment, how do you foresee an
12 independent party, but by your amendment, we are -- the
13 Secretary of State must adhere. How would they
14 accomplish that? Since there may not be an independent
15 party, would this subject as to your requirement, would
16 it be subject to interpretation or litigation? Because
17 I don't know that there is a bona fide independent
18 party, but both of those candidates represented and meet
19 the threshold of your amendment.

20 SENATOR FRASER: The Secretary of State
21 would determine, is what the wording says.

22 SENATOR VAN DE PUTTE: Thank you, Senator
23 Fraser.

24 Mr. President?

25 PRESIDENT: Senator Van de Putte, for



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1 what purpose?

2 SENATOR VAN DE PUTTE: I would like the
3 opportunity to introduce at this point, since I have the
4 floor and just finished with the questioning for Senator
5 Fraser, two of my special guests.

6 PRESIDENT: Plead proceed.

7 SENATOR VAN DE PUTTE: Thank you,
8 Mr. President. Members, it is a great pleasure for me
9 to have two young students with me at my desk today.
10 Both students of Central Catholic High School in San
11 Antonio, who have come here to witness the days
12 deliberation. I have Mr. Andrew Villareal and Mr. Angel
13 Ortiz, who are with us. Please welcome these fine two
14 young men to our Senate chambers. Thank you.

15 (Clapping.)

16 PRESIDENT: Thank you, Senator Van de
17 Putte.

18 Members, the question now is on the
19 adoption of the Floor Amendment Number 2. The Secretary
20 will call the roll.

21 SECRETARY: Averitt, Carona, Davis.
22 Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos,
23 Harris, Hegar, Hinajosa, Huffman, Jackson, Lucio,
24 Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro,
25 Shapleigh, Uresti, Van de Putte, Watson, Wentworth,



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1 West, Whitmire, Williams and Zaffirini.

2 PRESIDENT: There being 19 "I's" and 12
3 "Nay's", Floor Amendment Number 2 is adopted.

4 The Chair recognizes Senator Fraser for a
5 motion.

6 SENATOR FRASER: Mr. President, members,
7 I would now move passage of Senate bill 362, as amended,
8 to engrossment.

9 PRESIDENT: Members, the question is on
10 passage to engrossment. Senator Watson, for what
11 purpose?

12 SENATOR WATSON: At the appropriate time,
13 to speak on the main motion.

14 PRESIDENT: Senator Watson, this is the
15 appropriate time. You're recognized.

16 SENATOR WATSON: Thank you very much,
17 Mr. President. Members, the outcome today, we all know,
18 isn't really in doubt. It hasn't been since we opened
19 this legislative session. We knew what would happen,
20 what we should expect well before our meeting last week
21 of the committee of the whole, but even knowing what's
22 about to happen today, there was still a debate to be
23 had last week in a case that needed to be made.

24 People who are watching us, and maybe more
25 importantly, those who weren't watching, those millions



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1 of legally voting Texans whose lives won't be the same
2 if this bill passes, have a right to expect someone to
3 prove that the supposed voter impersonation problem is
4 at least significant enough to justify all the time
5 we're spending on it or that this bill actually was the
6 answer to stopping what cases were being told about.

7 Or, more importantly, that this bill would not
8 reduce the ability of people to vote. These folks, on
9 both sides of this debate, most of them good, concerned,
10 every day Texans, are entitled to proof, not assumptions
11 or rationalization or and anecdotes, but actual
12 statistical proof that Senate bill 362 won't target some
13 of our most vulnerable citizens and block them from
14 fulfilling their right and duty.

15 Members, the case was not made, and I
16 deeply believe that whether it's in the Department of
17 Justice or before a federal court, that will be
18 confirmed. There remains only the flimsiest evidence
19 that voter impersonation, the only type of fraud
20 addressed by this bill, even exists. Not counting, not
21 counting 60 year old history and the unverified
22 testimony of a controversial witness for a partisan
23 elections administrator, nothing at all we've heard
24 demonstrates that this is actually occurring any more
25 than anecdotally in Texas. And let's be honest. If



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1 someone had the goods on a case that was going to settle
2 this fight once and for all, they probably would have
3 been testifying at some time other than 4 in the
4 morning.

5 It's also far from clear that Senate bill 362
6 will stop whatever irregularities might conceivably be
7 out there. We've heard concerns about absentee
8 ballots. This bill does nothing about them. We've
9 heard about suspicious voter registrations. This bill
10 leaves registration procedures entirely in place.

11 We've been showered with hypotheticals about
12 how much could possibly go wrong if some shadowy figure
13 decided they'd rather steal a voter registration card
14 than an election. Yet we've heard of no instances in
15 memory where our elections failed our democracy because
16 people impersonated voters.

17 Unfortunately, the most significant new
18 information we got last week was that our existing laws
19 haven't been enforced with the rigor, or at least the
20 money that we've all been led to believe.

21 I suppose this debate has provided a service,
22 if all it's done is helped establish once and for all
23 that the Attorney General has not, in fact, spent about
24 a million and a half of a grant battling voter
25 impersonation.



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1 I know if there's anything we all share in
2 this chamber, it's a hope that we'll get double checked,
3 typo-free data about what cases are being investigated,
4 what's being spent on them and where they're occurring,
5 even if it means fewer boisterous political
6 proclamations about epidemics. So let's be clear about
7 the record.

8 According to the witnesses, voter
9 impersonation hasn't had any impact on any election at
10 any level at any time in any part of this big state.
11 But none of that matters today. Today isn't about
12 proof. It's not about the law. Today is about
13 politics.

14 We can and we will shoot at this thing until
15 we put holes in the holes, but that doesn't change the
16 numbers in this room and it really doesn't change that
17 one potent question on every political poll that gets
18 waived around like a DNA test in a murder trial. Should
19 people have to show voter identification before they
20 vote? Let's take that head on. It's a very simple
21 question and surely a simple question would have an easy
22 and simple answer, right?

23 Well, every one of you who's tried to fix
24 schools, fix health care, fix property taxes, fix
25 tuition or fix traffic knows that just isn't so, and no



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1 amount of hoping or guessing is going to turn this bill
2 into an adequate answer to this question. I wish this
3 bill did what some say it does. We all do. Every
4 single one of us on this floor wishes we could end all
5 voter fraud and maintain full access to voting without
6 costing the state or the counties a single dime. But if
7 that bill exists, members, this one sure isn't it. This
8 one isn't it.

9 So let's talk for a minute about what we would
10 be working on if we were actually serious about this.

11 Just for fun, let's think about solutions that
12 aren't partisan gut checks but actually go after the
13 cheaters without harming legitimate, conscious voters.
14 We could and we should increase penalties on every
15 criminal on every side who tries to influence the
16 outcomes of our elections. We could seal shut whatever
17 loopholes people have found to get documents they need
18 to register falsely. We could empower election judges
19 to crack down on people they know are cheating without
20 harming those who aren't. We could follow the lead of
21 some counties and do a better job of keeping our voter
22 rolls clean. We could develop bold, innovative
23 strategies that expanded registration even while
24 imposing new voting restrictions.

25 We could even have a serious bipartisan effort



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1 to figure out how the state, the state which currently
2 bears the full burden of providing voter ID in the form
3 of a voter registration certificate, can add photo
4 identification to its responsibilities and how it can
5 pay for it as cheaply as possible.

6 I favor all of those things. I'd imagine that
7 just about all of you in this room do. We want to stop
8 fraud wherever it exist. We all believe in the sanctity
9 of the voting booth. So how is it possible that voter
10 ID is not just divisive but wrenching? Because in the
11 end, I really don't think it's about the policy of
12 providing identification before voting.

13 This has risen to the top of everything; over
14 property tax relief, over the economic crisis, over
15 health care, over education reform, over tuition and
16 university funding, because it's not like those things.
17 Those are policy questions. This is a political bill
18 being considered in a political place, and there's no
19 clearer demonstration of how obviously political or
20 maybe politically obvious this bill is than the fiscal
21 note.

22 Last week, the folks flew from other states to
23 talk about their voter ID programs and they couldn't
24 stop talking about what a great job they did educating
25 people about what the law meant. They just didn't brag



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1 about spending money, they used it in court to justify
2 their actions, but last week, we were told we didn't
3 need any money, and then yesterday, we're told there's
4 now a two million dollar rider for the broad label of
5 voter education. Well, I suppose that's some
6 recognition of this billing's failings but it also
7 highlights those failings. It demonstrates the
8 expediency with which this is pursued. No fiscal note,
9 but it now costs two million dollars. And it reaffirms
10 the lack of data. Why not one million dollars? Why not
11 five million dollars? What does a real appropriate
12 effort cost? And, of course, it also shows the hidden
13 costs if we're wrong. People won't be educated on this
14 new obligation. And of course, that's just the
15 Secretary of State's office.

16 What about DPS? DPS told us last year by
17 giving a free photo identification card to anyone who
18 claims they want it for voting, they would lose \$671,000
19 a year, more than 1.3 million per budget and more than
20 four million every six years out of our highway fund.

21 The methodology's in that bill and everything,
22 more than a half million people have these ID cards. At
23 least half of those would use this voting exemption to
24 avoid having to pay for them. Those folks pay an
25 average of \$15 per card and you have a fiscal impact of



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1 negative four million dollars through 2012.

2 Folks, look it up. House bill 218, 80th
3 session. It's really quite convincing. But this year,
4 the fiscal note informs us that while there could be a
5 revenue loss due to the voting exemption, it is unknown
6 how many people would make the request and therefore
7 unknown the amount of revenue loss that would occur.

8 Members, that is not an answer. In fact, it
9 speaks to the other problems. We don't know how many
10 should or will need the ID, and, of course, it's been
11 pointed out nothing was said about the cost of
12 submitting this for pre-clearance under the Voting
13 Rights Act.

14 This ignorance of basic facts is particularly
15 troubling given Texas has a special burden on voting
16 rights issues. The state earned it with a terrible
17 legacy of intimidation, suppression, and outright
18 violence that hovers darkly over our history. No one,
19 not one of you in this chamber has any desire to go back
20 to those terrible times. I know you love Texas and its
21 people too much to even consider it. But I wonder if
22 you've really studied this bill and made sure that it
23 won't turn us back toward the past.

24 I keep looking and asking and hoping for any
25 data to prove this bill, this bill won't harm the very



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1 voters who ones were explicitly targeted by laws and
2 thugs, those treated so shamefully in a past that's far
3 more recent than the transgressions inside box 13. No
4 one, it seems, knows just what this bill could mean to
5 people who are poor enough, old enough or just plain
6 disconnected enough that they haven't needed to get a
7 driver's license.

8 No one tells us how many Texans don't have a
9 photo ID, what those millions of people may look like or
10 whether they'll be able to meet this bill's requirements,
11 and no one has shown a single study or say for sure just
12 how common it is to have all of these shards of paper
13 that we in this chamber seem to take for granted.

14 No one, frankly, has demonstrated a level of
15 thought and care that gives me any confidence that this
16 bill stands a chance of holding up outside these
17 partisan confines and partisan rules. And that should
18 be troubling to all of us. Because if I'm wrong, and if
19 the will of this chamber is somehow upheld, then this
20 bill will have consequences, and believe it or not,
21 those consequences will have nothing whatsoever to do
22 with politics, games or power. The consequences will
23 play out on decent, hard-working, patriotic citizens who
24 just want to vote but can't find time for yet more
25 hurdles and burdens, let alone those imposed on them by



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1 their own government.

2 We all talk about the sanctity of the voting
3 booth. Well, it isn't a registration card, the judge,
4 the rule book, or even the ballot itself that makes it
5 sacred. It's the person. It's you and me. It's our
6 constituents.

7 In the end, this bill targets far too many of
8 us by declaring a crisis that doesn't exist and adding
9 new burdens that, for some, will be expensive and
10 difficult.

11 This bill makes it harder for honest people to
12 vote. It's wrong no matter what happens today.

13 Thank you, Mr. President.

14 LIEUTENANT GOVERNOR DEWHURST: The Chair
15 recognizes Senator Van de Putte to speak on the bill.

16 SENATOR VAN DE PUTTE: Thank you,
17 Mr. President. Voting is our fundamental right, and as
18 I stand in this chamber, I have the vantage point of
19 looking at the portraits, particularly two who came to
20 this chamber to fight for voting rights and for all
21 civil rights.

22 I look across and I see the portrait of
23 Barbara Jordan, who was the lone vote time after time
24 against measures that would disenfranchise the people
25 that she represented, and I look over in the corner and



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1 I see the portrait of Henry B. Gonzalez, the senator who
2 holds the filibuster record for indeed daring to speak
3 long into the night against the Jim Crow laws.

4 Voting is a fundamental right, the right to
5 choose our leaders and choose the direction of our state
6 and our nation, and would hope that before we place any
7 additional burden on Texans to exercise that right, that
8 we would have just some proof that the problem of voter
9 impersonation actually exists.

10 We know from the testimony that the problem
11 does not exist in Texas. Some of my colleagues are
12 determined to proceed with this mis-guided effort that
13 will have the effect of disenfranchising many Texans.

14 Please bear in mind I know that my Republican
15 colleagues, I don't think they really want this fight or
16 they want to disenfranchise any voter in any of our
17 communities, but it's the effect of the law, not our
18 intentions, that carry the weight of discrimination.

19 Make no mistake, the voter ID laws are part of
20 a national partisan agenda designed to suppress voters.
21 Those voters who happen to be women, happen to be
22 elderly, happen to be minorities and even college
23 students, who, by the way, tend to vote more
24 Democratic.

25 Sadly in Texas, the history of voter



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1 suppression began long before 2009, and it didn't end
2 when the poll tax was abolished or when required
3 literacy tests were discontinued by law.

4 And so I hope you will indulge me while I
5 recount the true efforts of discrimination. In November
6 of 1964, letters were sent to residents in the Rio
7 Grande Valley, both in English and in Spanish, warning
8 them to stay home because if they went to the polls,
9 they could, quote, get arrested for interfering with the
10 election judge.

11 That same year, the Houston Post reported that
12 on election day, that handbills had been distributed
13 only in black and Latino neighborhoods, telling voters
14 that the police would be stationed at polling places to
15 arrest voters who had any outstanding traffic tickets or
16 parking tickets or owed child support payments. This is
17 true, members.

18 In 1982, when Carl Rowe was then running Bill
19 Clements' campaign, the Secretary of State at that time,
20 David Dean, sent local election officials a felons list
21 of voters to be purged from voter rolls, but a federal
22 court forced him to drop the effort when that list was
23 found to include eligible voters, most of them Hispanic
24 and African American, and one of those rolls included a
25 state representative candidate.



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1 On election day, that very same year in
2 Dallas, we wonder why 33 African American precincts ran
3 out of ballots as voters waited 4 1/2 hours in line in
4 the rain to vote.

5 That same year, large black and red signs were
6 posted in those precincts in Dallas by five Republican
7 state judges that read, quote, "Do not remove this sign
8 by order of the Sheriff of Dallas County. You can be
9 imprisoned for --" and then they listed six voting fraud
10 offenses.

11 Those were examples of just a few of our past
12 voter suppression tactics designed to scare people away
13 from the polls, but all designed to scare people in
14 Hispanic and African American neighborhoods with a heavy
15 Democratic turnout.

16 (End of CD.)
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1 IN THE COUNTY OF TRAVIS)

2 STATE OF TEXAS)

3 I, Lynne Rodriguez, Certified Shorthand Reporter in
4 and for the State of Texas, hereby certify to the
5 following:

6 That the CD entitled, "2009 (81R) SB 362,
7 Senate Flr Debate, 2ND Reading,"
8 was transcribed at the request of Anne Wilson, 209
9 West 14th Street, Attorney General's Office, Austin,
10 Texas 78701, and the amount due is \$_____.

11 That the aforementioned CD was transcribed
12 to the best of my ability to hear and understand the
13 CD;

14 That the transcript was submitted by
15 E-trans on April 23, 2012, to Anne Wilson, 209 West
16 14th Street, Attorney Generals' Office, Austin,
17 Texas 78701;

18 I further certify that I am neither
19 counsel for, related to, nor employed by any of the
20 parties or attorneys in the action in which this
21 proceeding was taken, and further that I am not
22 financially or otherwise interested in the outcome
23 of the action.

24 Certified to by me, this 22nd day of
25 April, 2012.



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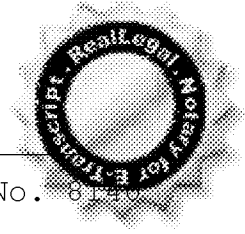
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2009 (81R) SB 362, SENATE FLR DEBATE, 2ND READING, PART
2

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1 SENATOR VAN DE PUTTE: (CD started in mid
2 sentence.)

3 -- in the context of the history of our
4 state, as we defend all Texans' right to vote. We have
5 not won the battle in the Senate today. That was
6 pre-determined the day we set this issue and no other
7 pressing issue as a special order, but I sincerely hope
8 that for those who have been discriminated against and
9 those who will have to show an extra burden here just to
10 cast the right to vote, it is my hope that this voter ID
11 bill, as written, will never become law.

12 Thank you, Mr. President.

13 LIEUTENANT GOVERNOR DEWHURST: The Chair
14 recognizes Senator Gallegos to speak on the bill.

15 SENATOR GALLEGOS: Thank you, Mr.
16 President, members. Two years ago, I came back to
17 Austin against my doctor's orders to stand together with
18 my colleagues to block the passage of voter ID, and on
19 the last day, when we heard the bill and Lieutenant
20 Governor told me that the bill would not be brought up,
21 I told you that I would fight this bad piece of
22 legislation at any cost, and I told you that I would be
23 back if this bill came up again. Well, here I am.

24 It's a shame, members, that it has come to
25 this day. It's a sad day in Texas history when we are



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1 wasting our taxpayer's time and money on a non issue.

2 Texas is first in the country for uninsured
3 people. Home foreclosures are skyrocketing and
4 thousands of young Texans and their families are trying
5 to figure out how to pay for college education. People
6 are still living out of trailers in my district and
7 several of your districts since Hurricane Ike. And
8 members, you know, Texans have some real problems to
9 deal with but voter ID legislation does not solve any of
10 them.

11 Let me read to you what was an editorial in
12 this Sundays Chronicle, and this is coming from the
13 Houston Chronicle, not me. "Texans currently must show
14 a voter registration card or other ID at the polls.
15 This measure would add a photo ID or other
16 alternatives. Democrats call requirements a tactic to
17 intimidate the elderly, the disabled, the poor and
18 minorities who are less likely to vote Democratic into
19 staying away from the polls, thereby shaving off a few
20 points from the total vote.

21 The Republicans call it guarding against voter
22 fraud and impersonation, but on a larger scale, it seems
23 to boil down to an illustration that Republicans in
24 Texas and throughout the United States are fearful for
25 their future political viability and are desperately



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1 trying to regain a power and an identity that has been
2 severely eroded as of late.

3 If that's the case, members -- and there are
4 better, more constructive ways to begin recouping lost
5 ground than throwing their weight around, especially on
6 an issue with as little merit as this one.

7 Chandler Davidson, a Rice sociology professor
8 and an expert on minority voters rights told the
9 Chronicle that the only aspect of voter fraud that voter
10 ID addresses is voter impersonation. The Republicans
11 are offering a solution for a problem that does not
12 exist, he said, and there is no credible evidence to
13 show that there is a problem in Texas or elsewhere, end
14 quote.

15 Colleagues like my colleague Leticia Van de
16 Putte said that General Greg Abbott spent 1.4 million
17 dollars in a crusade against voter fraud that has yet to
18 seen anyone convicted of voter fraud, 1.4 million
19 dollars.

20 Wouldn't Texans like to see this money used
21 more wisely, or at least one conviction come out of
22 this, at least one conviction, Senator Fraser.

23 Now that we are voting on a passage of a bill
24 that no one has seen a fiscal note until we've seen two
25 million dollars that, all of a sudden, come in, which is



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1 sure to cost hundreds of thousands, if not millions, but
2 really who knows, who knows.

3 I mean, when you mandate the voters of this
4 state to have a photo ID, I mean, somebody is going to
5 have to pay. Somebody is going to have to pay
6 something, and if you mandate, if you mandate Texans to
7 go get a photo ID, then what is the state's
8 responsibility? That's a big question, members.

9 If you're going to mandate for a Texas voter
10 to get a photo ID, then the state of Texas is going to
11 be responsible for that person and how to get an ID,
12 whether it's free, whether they have to go to a DPS
13 center, however it is, somebody is going to have to pay
14 on both sides. On the voter's side, I call it a poll
15 tax. You know, members, I think it's time to stop
16 wasting Texans money.

17 The right to vote is most cherished right a
18 citizen could have, and in our nation's history, the
19 right has been denied of many.

20 Just last week, we heard of Leticia's story
21 that this was not an uncommon practice. In the fight to
22 open the doors of a voting booth, there was a long
23 struggle and I thought we were passed this.

24 Members, let me -- you know, some of the fears
25 that I've heard about voter impersonation and somebody



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1 going to the polls and saying who they're not -- trying
2 to impersonate somebody, I mean, we've got illegal
3 immigration coming from Canada, from Europe, from Asia
4 and from Latin America.

5 You know, I would -- You know, let me walk you
6 through of some of the fears that I've heard on the
7 other side. You know, you got somebody, let's say, for
8 example, from Mexico coming across the border. It's
9 going to take him or her at least, you know, maybe two
10 weeks to get across. He or she has got through the
11 brush, through the mesquite, eating Spam and sardines
12 and crackers, water, whatever, you know, whatever they
13 could drink, and then going through that for at least a
14 month or two months to get to Houston or Dallas or San
15 Antonio.

16 After two months, I mean, blood, sweat, going
17 through that fields and all that, here's what the fears
18 that I'm hearing on the other side. You think that that
19 person is going to wait for the first election and go to
20 the polls and try to vote and try to impersonate a
21 voter? I don't think so. I mean, just going through
22 all of that, all of that blood, sweat and tears just to
23 go stand in line and try to impersonate a voter.

24 You know, when I first got elected to the
25 House in '91, you know, I went to the floor. The only



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1 ID I had was my driver's license, and when I got to the
2 door, they stopped me and asked me, "Well, where are you
3 going?" And I said, "Well, I'm going to my seat there
4 in the House of Representatives. My seat is inside."
5 Well, they made me wait. They made me wait until, until
6 that I said -- until they confirmed that, you know, who
7 I was, and then finally, with my family with me, they
8 let me go in. And you know, I said, "Well, it's 150
9 members, I'm new," didn't think anything about it and
10 just went to my seat.

11 Well, four years later, I got elected to the
12 Senate and, you know, here I am with my family coming to
13 the Senate door. The only ID I had on me was my
14 driver's license. I had to wait. They said, "Where are
15 you going?" "I'm going to my seat on the Senate floor.
16 I got elected," you know, and they said, "Well, wait a
17 couple of minutes." So I had to wait for them to
18 confirm that I said who I said I was, you know, as far
19 as ID, that the picture on my driver's license was a
20 picture of the ID that they had in me in the back.

21 So, you know, if they're going to stop me at
22 the door after I got elected in the House and I got
23 elected in the Senate and they're asking me who I am.
24 If I'm saying on who I am, they got to confirm me here
25 right outside these doors, then how do you think those



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1 people are going to feel out there when they know
2 they're U.S. citizens and they're going to go to the
3 voting booth and the election judge is going to tell
4 them well, "Well, we need this ID, this ID and this
5 ID." Well, obviously, when you're going to challenge
6 somebody and tell them that they are not who they say
7 they are and they know they're a U.S. citizen, you know,
8 you might get some violence, I don't know. You know,
9 when you challenge me, I'm going to challenge, you know,
10 if I know that I'm a U.S. citizen.

11 And then, you know, how are they going to
12 react? You know, Senator Fraser, the only amendment
13 that you left off was back in the Jim Crow days. If
14 you're going to have -- if you're going to do voter
15 suppression, do it right. You know, put German
16 Shepherds and a fire hose there, and if I go -- if
17 somebody goes there and they're impersonating a voter,
18 well then throw the dogs on them and, you know, throw
19 the hose on them.

20 You know, that's what this bill is all about.
21 You know, I think that, you know, when you really look
22 at it, it's voter suppression any way you call it. Like
23 Leticia said, back to the Jim Crow, George Wallace
24 days. It's a shame, it's a shame that we got down to
25 this, and, you know, I hope when you vote, members, when



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1 you vote on this bill, just think about that. Think
2 about that, when they stop me here at the door, not only
3 in the house but in the Senate. Thank you.

4 LIEUTENANT GOVERNOR DEWHURST: Senator
5 Gallegos, this is somewhat unusual for me to say, but I
6 do not get involved in floor debates, but you did make a
7 comment at the beginning of your remarks that I know was
8 unintended on your part. You made reference to me, and
9 I believe that if you will remember, each time in the
10 2005 session you asked me not to bring up the bill,
11 either you were going down to Houston for your surgery
12 or on days you specifically asked me, I satisfied your
13 request, and so I think you probably mis-spoke --

14 SENATOR GALLEGOS: No, no, no, I'm
15 talking about the night, the last night when you came to
16 my desk, you said, "Senator, go on home. We're not
17 bringing the bill." That's what I was talking about.

18 LIEUTENANT GOVERNOR DEWHURST: Yes, and I
19 tried to -- You were sick. I didn't want you -- I told
20 you that you needed to go home and that we would not
21 bring up the voter ID.

22 SENATOR GALLEGOS: That's what I was
23 referring to.

24 LIEUTENANT GOVERNOR DEWHURST: Thank you,
25 Senator.



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1 I'm going to pause for a moment. Senator
2 Huffman would like to do an introduction.

3 SENATOR HUFFMAN: Thank you very much for
4 accommodating me, Mr. President. And members, I'd like
5 to -- I have a special introduction today. We have some
6 special guests in the gallery, and they are UTMB medical
7 students. There's nearly a hundred here who have come
8 today from Galveston. They got up early this morning to
9 join us in Austin. They are from the school of
10 medicine, nursing, health professions and biomedical
11 sciences, and they come from many districts throughout
12 Texas, so many of your constituents are here in the
13 gallery this morning.

14 UTMB is a mark of excellence. For the past
15 three years, UTMB medical students have led the way with
16 the highest board scores out of any Texas public medical
17 school. Nursing students have an average pass rate of
18 98 percent on licensing exams, and the Rehab Sciences
19 and Physician Assistant programs are both ranked in the
20 top ten nationally.

21 As you look at each student, be reminded of
22 the resilience of UTMB. Every UTMB student suffered
23 from Hurricane Ike. Many students lost their homes and
24 everything they owned, but this did not deter them from
25 continuing their education since UTMB stops for no



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1 storm.

2 They are -- Look at these young people up
3 here. These are going to be the people that are going
4 to be taking care of us in our old age. I know you want
5 to support them and support UTMB. I'm going to ask you
6 them to all stand up and if we could give them a warm
7 welcome to the Texas Senate. Thank you.

8 (Clapping.)

9 LIEUTENANT GOVERNOR DEWHURST: Thank you,
10 Senator Huffman.

11 The Chair recognizes Senator Ellis for an
12 introduction.

13 SENATOR ELLIS: Thank you,
14 Mr. President. I have some guests here today from my
15 district and across the state. These are young people
16 who are active with Teach for America. This is Teach
17 for America day at the capital, Senator Shapiro, and
18 obviously, they're going to be visiting with you and
19 other members about some of the fine things they've
20 done. If I might, they had read a resolution earlier, I
21 won't read it, but I just want to tell you a little bit
22 of history about Teach for America in case some of us
23 have forgotten.

24 Wendy Kopp proposed Teach for America's
25 creation when she was an undergraduate at Princeton



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1 University. It was an undergraduate thesis during her
2 college year. She was convinced that many in her
3 generation was searching for a way to assume a
4 significant responsibility that would make a real
5 difference in the world and the top college students
6 would choose teaching over more lucrative opportunities
7 if a prominent teacher core existed. So as a 21 year
8 old, Kopp raised 2.5 million dollars in start-up money,
9 hired a skeleton staff and launched a grass roots
10 recruitment campaign.

11 During Teach for America's first year in 1990,
12 500 young men and women began teaching in six low income
13 communities across the country.

14 Since then, Teach for America's net worth has
15 grown to 20,000 individuals. They've become the
16 nation's largest providers of teachers for low income
17 communities and have been recognized for building a
18 pipeline for leaders to educational equity and
19 excellence all across our country.

20 Nationally, more than 60 percent of the cores
21 members continue to work in education, including the 360
22 school leaders that many of us know about. Currently,
23 there are almost 600 core members that are working
24 across the great state of Texas and they reach more than
25 50,000 students.



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1 I know that Erica Lee is active with them. I
2 was looking for them earlier. I just want all you all
3 to stand, and members, would you please welcome and
4 recognize these young people. I hope my daughter
5 becomes one as well.

6 (Clapping.)

7 LIEUTENANT GOVERNOR DEWHURST: The Chair
8 recognizes Senator Shapiro. Do you wish to speak on the
9 introduction?

10 SENATOR SHAPIRO: Please. Thank you.
11 Members, I absolutely say ditto to everything that
12 Senator Ellis just said. These are the best and the
13 brightest and they have chosen, and I mean chosen, to
14 participate in Teach for America. We are so fortunate,
15 and the problem has been we've only had some in the
16 state of Texas and they've mostly been in the Houston
17 area, so they're now branching out and coming to the
18 Dallas area, and we hope that as time progresses, we'll
19 have them all over the state of Texas.

20 This is a great, great organization and I hope
21 you all recognize and realize how important and valuable
22 this program really is. Thank you, Senator Ellis, for
23 bringing it to the floor.

24 LIEUTENANT GOVERNOR DEWHURST: The Chair
25 recognizes Senator Hegar to speak on the bill.



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1 SENATOR HEGAR: Thank you, Mr. President,
2 members. I just wanted to make a couple points because
3 I've heard several of the statements earlier today, and
4 I know when we had the very long hearing the other
5 night, we had a lot of numbers being thrown out about
6 the amount of expenditures from the Attorney General's
7 Office, the number of convictions, the number of guilty
8 pleas, because we've talked about how difficult it is to
9 prosecute cases of voter fraud.

10 We all talked about how difficult it was;
11 witnesses, all the witnesses were consistent on that
12 point, and I just wanted to make sure everybody was
13 clarified that the actual number of expenditure wasn't
14 the 1.4 million, it was actually \$697,000, and that's
15 for 30 individuals or 30 indictments.

16 Of those 30 indictments, 23 have either been a
17 guilty plea or a conviction. One of those convictions,
18 as I mentioned the other night, and I forget at what
19 point in the night I mentioned it, was a constituent of
20 mine from Port Lavaca, where actually the outcome of the
21 election was changed because of the fraud that went on.
22 And so I wanted to make sure we all were aware of those
23 numbers and make sure we heard all those, because I
24 think it's important the record was set straight the
25 other night, and I think it's important that we make



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1 sure it's set straight as well today.

2 I also wanted to mention that sometimes --

3 Try being a member in my shoes, a member who,
4 Dean, you entered the Senate, the House many years ago.
5 You looked a little bit younger, maybe had a little full
6 hair like I do today, and I'll tell you, when I go to
7 the Senate chambers, there's been times that Riggs has
8 had to correct people, said, "No, he's actually a
9 senator. He does get to walk onto the Senate floor."
10 The other day I went to the House and I got stopped
11 because the guy said, "Wait, who are you? You're going
12 on to the House floor. You don't have permission to
13 go."

14 "Well, I'll get out my ID and I'll show you or
15 you just take my word. I'm Senator Glen Hager." So
16 sometimes the youthful look can have those problems as
17 well. Also, Dean, I'll let you know, I didn't vote for
18 President Jimmy Carter. Actually I was too young and I
19 wasn't able to vote in that election, so I just wanted
20 to make sure. I didn't know if anyone else would tell
21 you who voted back then, but I didn't. I didn't have
22 the opportunity.

23 So my point is just making sure the record is
24 straight. So with that, thank you all members. I just
25 think it's important that we know the actual number of



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1 convictions that have occurred. There has been 23 and
2 one of them was a constituent of mine who actually did
3 change the outcome of that election. Thank you.

4 LIEUTENANT GOVERNOR DEWHURST: The Chair
5 recognizes Senator Shapleigh to speak on the bill.

6 SENATOR SHAPLEIGH: Thank you,
7 Mr. President, members. I want to share with you the
8 story of David Iglesias, the former Republican U.S.
9 Attorney for New Mexico, because I think his story and
10 his firing give context and reveal to us here today the
11 real story behind what you, Senator Fraser, call voter
12 ID.

13 Iglesias was appointed by George Bush in
14 August of 2001 and became embroiled in one of the
15 largest scandals ever to hit the United States
16 Department of Justice. Soon after his appointment,
17 Iglesias came under intention pressure from Pete
18 Domenici, Heather Wilson, the Department of Justice and
19 White House to take action on alleged voter fraud in New
20 Mexico.

21 In 2004, Patrick Rogers, a Republican
22 operative in New Mexico sent an e-mail to Iglesias that
23 said this, quote, "I believe the voter ID issue should
24 be used at all levels, federal, state, legislative
25 races. You are not going to find a better wedge issue."



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1 Soon thereafter, based on e-mails, calls and
2 letters from DOJ, Republican office-holders and the
3 Republican party, David Iglesias did the right thing.
4 He set up a task force in 2004 to investigate the scope
5 of voter fraud in New Mexico. He included local, state
6 and federal law enforcement and both Democratic and
7 Republican officials.

8 After reviewing over a hundred cases, he and
9 his task force concluded there were no prosecutable
10 cases of voter fraud and refused to bring charge where
11 there was no evidence to support it.

12 In a PBS interview, David Iglesias said he was
13 not willing to engage in unlawful activities. Those
14 were his words, to prosecute cases that just weren't
15 there.

16 Let me emphasize this point. David Iglesias
17 was a loyal Bush appointee, a Republican who had
18 previously run for statewide office, and could not find
19 evidence of voter fraud in the state of New Mexico. He
20 let DOJ and the White House know that he would not
21 prosecute these cases because they did not exist, and
22 for that, David Iglesias was fired. His determination
23 to stick to the law and his values got him fired.

24 Later, when asked how he would characterize
25 using United States Attorneys to benefit a particular



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1 political party at the polls, Iglesias said this, "It's
2 reprehensible, it's unethical, it's unlawful. It very
3 well may be criminal, and I know it's a marked departure
4 from prior administrations, both Republican and
5 Democrat, who understood that U.S. Attorneys, as chief
6 federal law enforcement officials, have to stay out of
7 politics."

8 When asked why he thought he was fired,
9 Iglesias said this. "For eliciting partisan political
10 reasons. Specifically, not coming up with voter fraud
11 cases, number one. And number two, not rushing forward
12 indictments involving prominent Democrats during the
13 election cycle."

14 When asked about the motivations of those
15 pushing voter fraud indictments, he said that their
16 motivations, quote, "Were clearly partisan." There
17 appears to be a growing body of evidence that suggests
18 there's voter suppression going on throughout the
19 country.

20 The investigation into the firing of David
21 Iglesias and eight other U.S. Attorneys continues to
22 this date. Just two weeks after, Karl Rove, who is
23 actively involved in these U.S. Attorneys cases, agreed
24 to testify before Congress under oath regarding his
25 role, and coincidentally, the first witness for the



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1 proposition in Texas that we need a voter ID bill was
2 Hans von Spakovsky, who himself was part of that DOJ.

3 Fast forward to last session when House bill
4 218, a predecessor to this bill, was passed in the
5 House. In a column he wrote at that time for the Quorum
6 Report, Royal Masset, who for 15 years was a political
7 director for the Republican party of Texas, stated in
8 writing this: "Voter ID is a direct descendent of poll
9 taxes and of allowing only white male property owners to
10 vote. In its effect, it is racist, barbaric, anti-
11 Democratic and contrary to everything that made America
12 great."

13 Mr. Masset said that requiring photo IDs could
14 cause enough of a drop-off in legitimate Democratic
15 voting to add three to five percent to the Republican
16 vote, and really, that's what this bill is all about.

17 In 2005, the census announced that Texas had
18 joined Hawaii, New Mexico and California as the only
19 majority minority states. By 2035, Texas state
20 demographer predicts that Hispanics will make up the
21 majority ethnic group in Texas.

22 In my district, this bill is about Maria
23 Lopez, 70 years of age, who cleans offices. She's never
24 had a driver's license, never needed one, and when she
25 is asked for one, or a birth certificate, or a pilot's



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1 license, or any of the documents listed in Senate bill
2 362, she won't have them, because the time and expense
3 to go get one are too much for a lady who works 60 hours
4 a week at minimum wage; so she won't vote. And keeping
5 her home is what this bill is about.

6 As Mr. Masset stated yesterday in the Dallas
7 Morning News, Hispanics should take this personally
8 because it is aimed at them.

9 This bill is about Republicans scaring off
10 just enough elderly, disabled, blacks and Hispanics to
11 stay in power four more years, plain and simple. Thank
12 you, Mr. President.

13 LIEUTENANT GOVERNOR DEWHURST:
14 Mr. Doorkeeper?

15 DOORKEEPER: Mr. President, there is a
16 message from the House.

17 LIEUTENANT GOVERNOR DEWHURST:
18 Mr. Messenger.

19 MESSENGER: Mr. President, I am informed
20 by the House to direct the Senate the House has taken
21 the following actions: The House has passed the
22 following measures: HCR 97 by (Inaudible), and German
23 Exchange student Carolyn Bosch on the occasion of her
24 occasion of her visit to the state capitol on March 16th
25 and 17th.



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1 LIEUTENANT GOVERNOR DEWHURST: The Chair
2 recognizes Senator West for an introduction.

3 SENATOR WEST: Thank you very much,
4 Mr. President. Mr. President, arise to recognize Pastor
5 Anthony Noland with the Paradise Missionary Baptist
6 Church and a group of 12 young men ages 9 to 17 in the
7 gallery, and I'd ask them to be stand to be recognized,
8 and I'd also ask us to welcome them to their state
9 capitol.

10 (Clapping.)

11 LIEUTENANT GOVERNOR DEWHURST: Senator
12 Williams. The Chair recognizes Senator Williams to
13 speak on the bill.

14 SENATOR WILLIAMS: Thank you,
15 Mr. President. Members, today I stand in support of
16 Senate bill 362. In the course of this debate, there
17 have been many concerns that have been raised about the
18 voter impersonation and whether or not that really
19 occurs.

20 Many of you, in fact, most of the folks who
21 have spoken so far today would argue that voter
22 impersonation does not occur. I disagree. I have here
23 in my hand four newspaper articles, two from the Monitor
24 in Progresso, about a story in Progresso, and another
25 from the Rio Grande Guardian. These four newspaper



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1 articles that are dated March 9th, March 14th, for the
2 Monitor, and March 10th and March 16th for the Rio
3 Grande Guardian, reference voting irregularities in the
4 Progreso Independent School District with a school
5 board election.

6 This prompted me to make an open records
7 request of the Attorney General, and I have, as a result
8 of that open records request, signed, notarized
9 affidavits demonstrating that voter impersonation does,
10 in fact, occur in Texas.

11 Following the May 4, 2008 election conducted
12 in the Progreso Independent School District, several
13 citizens and non-citizens attested that various
14 individuals had perpetrated numerous forms of voter
15 fraud, including voter impersonation. I'd now like to
16 read some excerpts from these affidavits, these sworn
17 affidavits, and I'm going to introduce them into the
18 record.

19 The first is from Mr. Torres, and in his
20 affidavit, he attests to the following. "On Monday,
21 April the 28th, 2008, I was brought to the Progreso
22 Independent School District site by Lorenzo Castillo,
23 who handed me a voter registration card to participate
24 in the elections. He stated that they would pay me to
25 go vote for Juan Ramos, Michael Villa and David



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1 Hernandez. I proceeded to go in and cast the vote with
2 the registration card that belonged to Alfredo Medrano.
3 After I went in to vote, I was paid \$10 by Jose
4 Guadalupe Villa at the time -- and at this time,
5 Mr. Lorenzo Castillo took the card from my possession."

6 We also have an affidavit from Abigail Enfante
7 and Marciella Enfante, who were both poll watchers. In
8 their affidavits, these women both attest that on April
9 28th, around 2 p.m., a voter by the name of Jimmy
10 Vasquez went in to vote with a voter registration card
11 in the name of Juan Pablo Maldono. Priscilla, the
12 clerk, told him, "You're not Juan Pablo Maldono, you're
13 Jimmy Vasquez." Then he answered, "Yes, I am." He was
14 asked to present ID and he turned around and walked out.

15 Members, but for the fact that this poll
16 worker recognized Mr. Vasquez and realized that he was
17 not who he claimed to be, he would have been allowed to
18 vote and his vote would have counted in this election.

19 There's another affidavit by Jessica Rongel,
20 and in her affidavit, she attests that Mr. Guadalupe
21 Villa asked her to recruit a friend to vote and that her
22 friend would be provided with a voter registration
23 card. And Jesus Vasquez, in his affidavit, attests that
24 he did not exercise his right to vote in the Progreso
25 school board elections on May 10th and that someone used



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1 his identity to vote in the election and appeared in
2 person at the early voting site.

3 And finally, an affidavit from Andrea Peña,
4 and in her affidavit, she attests, "Mr. Oscar Villa
5 forced me to vote with another person's voter
6 registration card when I very clearly told him I could
7 not vote because I'm not a citizen of the United
8 States. He said it wasn't a problem; all I had to do
9 was go to the park in Progresso and he would give me a
10 voting card. He told me that if I helped him, he would
11 fix my legal problems, referring to how he'd help me so
12 that they wouldn't take away my children."

13 "When I arrived at the park, he gave me the
14 card of Mrs. Maria de los Martinez, and proceeded to
15 tell me that someone inside there was waiting to help me
16 and that I shouldn't forget the names he had given me.
17 When I entered the voting building, a young man who was
18 one of those acting judge entered the booth with me and
19 voted for me."

20 Members, these affidavits demonstrate that
21 in-person voting fraud is very real. It happens. It's
22 happened just a few weeks ago or a few months ago in the
23 Progresso Independent School District election.

24 These affidavits are also supported by the
25 testimony of Mr. Ed Johnson, who's an employee of the



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1 Harris County Tax Assessor collector, and voter
2 registrar Leo Vasquez. If you will recall, last week
3 Mr. Johnson testified that a variety of voter fraud had
4 occurred in one of our states most populous counties,
5 including the casting of vote by people who were not
6 alive.

7 Not only does voter fraud, in-person voter
8 fraud occur, but Texas has a legitimate interest in
9 deterring and detecting this voter fraud. As Justice
10 Stephens remarked in the majority opinion in Crawford v.
11 Marion County, there is no question about the legitimacy
12 of the importance of our state's interest in counting
13 only the votes of eligible voters. The interest in
14 ordinarily administration and accurate recordkeeping
15 provide a significant justification for carefully
16 identifying all voters participating in the election
17 process.

18 Members and ladies and gentlemen who are with
19 us here today, we as elected officials have a duty to
20 protect the integrity and legitimacy of representative
21 government. As the report of the Commission on Federal
22 Election Reform that was chaired by former President
23 Jimmy Carter and former Secretary of State James Baker
24 observed, Americans are losing confidence in the
25 fairness of elections. And while we do not face a



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1 crisis today, we need to address the problem of our
2 electoral system. The electoral system cannot inspire
3 public confidence if no safeguards exist to deter or
4 detect fraud or to confirm the identity of voters.

5 We must have an electoral system that inspires
6 confidence. We must prevent fraud and we must prevent
7 the disenfranchisement of legitimate votes. Members, I
8 ask you to join me in voting "I" for Senate bill 362.

9 Mr. President, I would also move that my
10 remarks be reduced to writing and placed in the record
11 and I would like to include as a part of my remarks
12 these sworn affidavits that I made reference to in my
13 remarks.

14 LIEUTENANT GOVERNOR DEWHURST: Members,
15 you have heard the motion by Senator Williams. Is there
16 any objection to the inclusion of the remarks by Senator
17 Williams and the affidavits in the record?

18 Senator Shapleigh, for what purpose do you
19 rise, sir?

20 SENATOR SHAPLEIGH: Mr. President, I
21 don't have any objection to it but I'm hoping that we
22 put everyone's remarks in the record so we have an
23 accurate record of what took place on this bill here
24 today. I'll make that motion at the appropriate time.

25 LIEUTENANT GOVERNOR DEWHURST: You've



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1 heard the motion by Senator Williams. Is there any
2 objection from any member?

3 The Chair hears none and the motion is
4 adopted.

5 SENATOR SHAPLEIGH: Thank you,
6 Mr. President.

7 THE COURT: If you hold just for a
8 minute. There's a motion by Senator Shapleigh to
9 include --

10 SENATOR SHAPLEIGH: I would make the
11 motion that we include everybody's comments to this bill
12 to the culmination of the bill, including all the
13 exhibits and the discussions that were had on any of the
14 votes.

15 LIEUTENANT GOVERNOR DEWHURST: Let's hold
16 on that until, until engrossment, and then we'll include
17 all of it.

18 SENATOR WILLIAMS: Thank you.

19 LIEUTENANT GOVERNOR DEWHURST: Thank you,
20 Senator Williams.

21 SENATOR WILLIAMS Mr. President, do I
22 still have the floor?

23 LIEUTENANT GOVERNOR DEWHURST: Yes.

24 SENATOR WILLIAMS Okay. in light of the
25 motion that's coming in a few moments, I would just also



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1 like to correct the record. There was a statement made
2 earlier by Senator Gallegos that the Attorney General
3 spent 1.4 million dollars investigating voter fraud, and
4 respectfully, I would direct the body's attention to our
5 testimony in committee, which conclusively demonstrated
6 that that is not case the case. With that, I'm done
7 with my remarks for today. Thank you.

8 LIEUTENANT GOVERNOR DEWHURST: Senator
9 Lucio, for what purpose do you rise?

10 SENATOR LUCIO: To speak against the
11 bill, Mr. President.

12 LIEUTENANT GOVERNOR DEWHURST: You're
13 recognized.

14 SENATOR LUCIO: Thank you, Mr. President,
15 and I will be brief. Members, I rise only because
16 Senator Williams brought up my district, and I did turn
17 in, and it was noted as one of the exhibits back when we
18 met as the committee as a whole. I'd like to read the
19 letter from our District Attorney down in Hidalgo
20 County, one of the biggest counties in the state, as
21 Senator Williams mentioned, and it states, "To the
22 Senate Committee of the Whole, Voter Identification
23 Legislation," and it reads as follows. "Allegations of
24 a few cases of voter impersonation occurring in Hidalgo
25 County during 2008 came to my attention on Thursday, May



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1 the 5th, 2009 by several members and staff members in
2 the Texas legislature. Apparently they were obtained
3 from the Texas Secretary of State's office, who, along
4 with the Office of Attorney General, have been in
5 possession of this evidence for awhile."

6 "Without discussing the details of allegations
7 currently pending, I can tell you that I believe that
8 there is a problem with compliance with the law. It
9 lies more in the quality of the administration of
10 elections than in law itself. The irregularities have
11 seen -- we have seen occur mostly in non-partisan local
12 elections of small governmental entities such as school
13 districts, water districts and municipalities, some of
14 which decline to contract the administration of their
15 elections to the contract election administrator's
16 office."

17 "This has, in the past, led to questions. If
18 I were to recommend an amendment to the Texas Election
19 Code, it would not be to increase burdens placed on
20 honest voters attempting to cast their ballots, but
21 instead, to further professionalize the administration
22 of elections by requiring small governmental entities to
23 contract with their counties elections administrator
24 instead of administering those elections themselves."

25 "Further, I would require the Secretary of



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1 State and/or the office of the Attorney General to very
2 quickly forward to local district or county attorneys
3 the irregularities of which they have credible evidence
4 so that we can investigate those incidents and prosecute
5 them when the evidence suggests a violation of the
6 law."

7 "Thank you very much for the opportunity to
8 share my views. Respectfully, Rene Guerra, Criminal
9 District Attorney, Hidalgo County, Texas."

10 Members, I share this letter with you because
11 Mr. Guerra was not able to be here last week when we had
12 the committee as a whole, and it's important for you to
13 hear from a gentleman that has served that county for
14 two decades in these matters that we're dealing here
15 today, so I ask you to understand that there's not
16 widespread voter fraud in that county, especially at a
17 higher level.

18 As I mentioned, in some local units of
19 government, there has been some discrepancies, but
20 certainly we will be working to try to, you know,
21 address those issues.

22 Thank you, Mr. President.

23 LIEUTENANT GOVERNOR DEWHURST: Thank you,
24 Senator Lucio.

25 The Chair recognizes Senator Ellis to speak on



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1 the bill.

2 SENATOR ELLIS: Thank you, Mr. President,
3 and members, I'll be as brief as I can be. Obviously
4 both sides have put together a pretty good record on
5 this piece of legislation but there are a couple of
6 point I do want to make. I don't know if I made them
7 before or not.

8 Chairman Fraser, this is the 64th day of a 140
9 day legislative session. I just want to reiterate to
10 you and all of the members that on our opening day,
11 obviously a decision was made to change the rules so
12 that this bill could come up.

13 Now at an unprecedented time in our history,
14 with all of the problems, economic problems that we have
15 in this country and around the world, the most important
16 thing some would have us believe in Texas, Senator
17 Fraser, is this voter ID bill.

18 Now clearly, the votes are there, because you
19 only need 16 to pass it, so I guess I don't have to give
20 a real long speech, but I do want to point out to you
21 that as important as it is to some that you are on the
22 right side of the politics on this issue, because
23 there's a drum beat in the base of your party to try to
24 get this bill passed. For you, for your sake, I'm glad
25 you are going to go ahead and get it out of here early



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1 because you're certainly on the wrong side of history,
2 and at least for the remainder of this session, maybe
3 we'll be able to focus on issues that really matter to
4 people.

5 It's interesting, when the witnesses came in,
6 I didn't see some of the titans of election opportunity
7 from Texas. Our experts come in and served as resource
8 witnesses. Now based on some of the way their questions
9 were answered, it looks like some of those people bought
10 their tickets at the last minute to get in here because
11 they certainly weren't very prepared.

12 It's interesting this bill does not cover mail
13 balloting. It's interesting it doesn't cover it because
14 most of the fraud that has been discussed on this floor
15 or allegations of fraud have been instances where it has
16 involved mail-in balloting. Now if you were to guess,
17 if you can't guess, just go ask some expert in either
18 party, who's more apt to benefit from mail-in
19 balloting. Are people more educated, are they more high
20 income? Do they tend to be more from the Democratic
21 party or the Republican party?

22 We had a little interesting lesson in
23 history. We heard a lot about President Jimmy Carter,
24 Secretary of State James Baker. We didn't have a clear
25 idea of where HAVA came from. The Help America Vote Act



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1 was passed because of the debacle in Florida, that
2 regardless of which side any of us in this chamber may
3 have been on the issue, you couldn't help but be
4 embarrassed when developing countries were saying Jimmy
5 Carter needs to put together an election time and
6 monitor the elections in America, particularly in
7 Florida. That was a comprehensive piece of legislation,
8 Senator Fraser. You passed out the recommendations.
9 It's a great set of recommendations. Even the summary
10 is only about eight pages. But what has happened here,
11 with the Help America Vote Act and with the Carter/Baker
12 Commission, has been to do a little cherry-picking.

13 This bill is an attempt to pull out the part
14 of that recommendation from HAVA, Help America Vote Act,
15 and the Carter/Baker Commission that tends to benefit
16 one party over the other and one group of people over
17 the other. That's the reason why Texas was put under
18 the Voting Rights Act.

19 Hey, it's not a partisan comment when I make
20 it. Democrats controlled this chamber when Lyndon
21 Johnson signed the historic Voting Rights Act. Leticia
22 made reference to my predecessor over here on the Senate
23 wall, when Senators and Congressman Jordan added Texas
24 to the Voting Rights Act, it was a bilingual amendment
25 of all things. It just didn't put Texas in but other



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1 states, because even President Johnson didn't want to
2 admit that there were problems in the Lone Star State.
3 He wanted to believe that in his political lifetime, the
4 adoption of states rights, I guess, Texas would clean it
5 up on its own. We didn't and we still haven't.

6 We ought to really take a deep breath and
7 pause, and hope when it gets over to the House side,
8 that they exercise better judgment than us. Hey, I
9 could read the political tea leaves. I know you're
10 concerned at the voting rights department that the
11 Justice Department won't pre-clear this piece of you
12 know what that's going to pass here today. So I suspect
13 that there will be an attempt. I heard the rumor mill
14 says you just bypass the Justice Department and go to a
15 three judge panel in Washington D.C.

16 One of your witnesses testified, nice young
17 man, nice young man, but interesting. All of those
18 career professionals in the Justice Department who've
19 been under there under Democrats as well as under
20 Republicans, Troy, resigned because the career
21 professional said Georgia's voter identification
22 suppression will shouldn't be pre-cleared. That's what
23 the professionals said. That gentleman that you had
24 testifying here the other day overruled the career
25 professionals and they eventually quit. I mean, part of



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1 his resume indicated he was on the Federal Elections
2 Commission. He was. Never got approved because his
3 history came back to haunt him.

4 We're making a serious mistake today. More
5 than anything else, we ought to be worried about Texas
6 being 46th among the 50 states in the country in terms
7 of number of people who show up to vote.

8 Last cycle, 54.7 percent voter participation
9 rate, voter participation rate in Texas in 2008. Part
10 of that Carter/Baker Commission recommends a lot of
11 common sense approaches like election day registration.
12 That's probably why Minnesota has a 78 percent
13 participation rate; Wisconsin 72; Maine, 71. Even New
14 Hampshire, without election day registration, they have
15 71 percent. Colorado, 69; Iowa, 69; Michigan, 68;
16 Alaska, 68. You made the comment on the floor the other
17 day during the committee of the whole meeting that
18 election rates had gone up in those states, those that
19 had passed a voter identification bill.

20 I would make the argument to you maybe
21 election rates went up because the people were angry
22 because that bill did pass in Georgia and Indiana, and
23 tell you you might be surprised what happens this next
24 go around.

25 The last comment I want to make. There's been



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1 a lot of talk about what we do in Texas today and other
2 states that have some version of voter identification.
3 Just so members would know what happens now, somebody
4 made the comment that about 24 states have some form of
5 photo ID. I want to make it very clear what happens in
6 America today.

7 This is according to the Pugh Center on
8 states. Only three states require a photo
9 identification; Florida, Georgia and Indiana.

10 Florida, the same state that was the impetus
11 for creating the Carter/Baker Commission and the Help
12 America Vote Act. Georgia and Indiana. Another four
13 request it, don't require it but they request it.
14 Hawaii, Louisiana, Mississippi and South Dakota. 18
15 states require ID, photo or non-photo ID, for all
16 voters. Texas is one of those states, along with a
17 number of our neighboring states, Alabama, Arkansas,
18 Arizona, Colorado, Connecticut.

19 The short of what I want to say is, when this
20 bill passes out of this chamber today, the House sponsor
21 has been here a good part of the debate today and he was
22 here when we started to debate on this bill.

23 Hopefully, they'll take the time, look at the
24 pause button, which we didn't do on this side, and
25 either take this bill and clean it up, address all of



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1 those issues, like same day registration, election day
2 registration. Hey, if you really want to do something
3 about voter fraud in all those instances you talked
4 about, well, do something about mail-in ballots. If
5 you're really serious about impacting, how to make sure
6 people have faith in electoral system, disenfranchising
7 one group of people, any group of people as opposed to
8 another one is not the way to do it.

9 Troy, you made the comment to me, "Who would I
10 know that couldn't fit into one of these categories that
11 you laid out?" Don't have a hunting license. If you
12 don't have a hunting license, you could have a library
13 card. You could cast a professional ballot. You didn't
14 know the process on how it would be counted, so I even
15 suggested one. Your witnesses never answered that
16 question. The people who don't have a library card
17 oftentimes the people who cannot read, which is why they
18 don't have a library card.

19 People who don't have a utility bill
20 oftentimes are people who don't have utilities. People
21 who don't have a phone bill are probably people who
22 don't have a phone. There are people, they may not come
23 in this chamber, they may not be people that we run into
24 and have a conversation with every day, Chairman Ogden,
25 but those people exist not just in my district but in



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1 your's as well and every member on this floor. They're
2 the folks, when you got up this morning, were catching
3 the early bus and didn't have to have an identification
4 card to get on that bus. They're going to work the jobs
5 that we don't have to work because we're privileged, and
6 I'm saying in this body, we ought to be as concerned
7 about those people who have the least among us as we are
8 concerned about those people who are more apt to vote
9 for or against us. Thank you.

10 LIEUTENANT GOVERNOR DEWHURST: Senator
11 West, did you wish to speak on the bill or was that
12 previously?

13 You're recognized.

14 SENATOR WEST: Mr. President, members, I
15 will not be long but, you know, we have a lot of people
16 in the gallery and I'm glad you're here, as citizens of
17 the state of Texas, because the reality is the history
18 of Texas is upon this very moment in this chamber on
19 this particular day as we cast this vote. It's a very
20 important vote, and I'm glad you're here listening to
21 the debate.

22 The history has been well chronicled by
23 Senator Watson, Van de Putte and Gallegos, and they've
24 illuminated had the tragic past in terms of voter
25 participation in this particular state and also ad hoc



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1 obstacles that have been placed in the way by those in
2 the majority in order to obtain political dominance.

3 Members, we should not forget the history of
4 our civil rights in this particular state, and I know
5 that the members of this body are a good and decent
6 people that bring different backgrounds and perspectives
7 to bear on this issue that we address today.

8 What is this really all about? What is this
9 all about? This will be the second bill, members, that
10 we will have passed out of this chamber, the second
11 bill. So what is this all really about? Maintaining
12 political dominance in this state. That's what it's all
13 about. And let's just kind of call it what it is.
14 Maintaining political dominance.

15 Members, this is a solution looking for a
16 problem. My desk mate chronicled a couple affidavits
17 that he received from the Attorney General, but I
18 suggest to you that it's basically a non-existent
19 significant issue in the state of Texas. Members
20 supportive of this legislation, this is an issue that
21 you need to come to grips with when you begin to look at
22 the demographic changes in the state of Texas, and let
23 me just kind of go through those with you.

24 Based on the latest statistical analysis, at
25 least as of July 21, 2007, 23.9 million Texans, and all



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1 of us heard basically what the demographic changes will
2 be in this particular state, and we know that this state
3 is going to be predominantly Hispanic. Well, the fact
4 of the matter is now it's predominantly minority.

5 When we begin to look in the out years and the
6 number of citizens that we're going to have in the state
7 of Texas, what is it going to look like? When we begin
8 to look at the individuals that will be in this chamber,
9 what is it going to look like? When we begin to look at
10 the people that will be in attendance, what will Texas
11 look like? It's going to be predominantly minority.
12 And so the question that I ask those of you that are
13 gung-ho on making this our second legislative initiative
14 coming out of this body, what's the purpose behind it?
15 You will say again that, you know, there's a problem.
16 There's no significant problem. It's all about
17 political dominance. Let's call it what it is.

18 But you got to understand also, I want you to
19 hear my words today, members, demographics in this state
20 are changing and ultimately the make-up of the voting
21 populous will change also. Those that are being
22 suppressed by this pretext will ultimately control this
23 body of politics and the laws that future generations of
24 Texas live under.

25 There's that old saying sometimes what goes



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1 around ultimately will come around, and I hope that as
2 future generations look at this particular issue, that
3 they can pretty much dissect exactly what occurred on
4 this particular day in the state Senate and judge it for
5 exactly what it is, and ultimately if this bill becomes
6 law, ultimately repeal it if we can't get it taken care
7 of at the Justice Department or Circuit Courts in D.C.

8 LIEUTENANT GOVERNOR DEWHURST: The Chair
9 recognizes Senator Hinojosa to speak on the bill.

10 SENATOR HINOJOSA: Thank you,
11 Mr. President, members. I'd like to speak against the
12 bill. First of all, I'd like to address a couple of
13 point made by Senator Williams on the affidavits out of
14 Progresso, Rio Grande Valley. Let me first say that
15 those affidavits are tainted for the simple reason it's
16 a very small community and there were outside activists
17 or Republicans who came in for the sole purpose of
18 trying to find people who would sign affidavits that
19 they themselves drew up. Also, these affidavits were
20 never turned in to the District Attorney's Office for
21 prosecution. In addition to that, it was not the DA's
22 office who received any of these complaints.

23 Furthermore, what also happened is that the
24 affidavits were not made by investigators or trained
25 people. There again, they were made by a group of



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1 Republicans who live outside this small community
2 looking and trying to fabricate this type of evidence.
3 And I'm somewhat disappointed that again here we are
4 dealing with a partisan issue at a time when we have
5 people losing their homes, their jobs, they can't pay
6 their bills. We're dealing with an issue that's not
7 going to help them have a better quality of life.

8 I would tell you that I thought that the
9 voters of the last election spoke loud and clear that
10 they wanted no more issues like this to come before this
11 body. They want us to deal with the bread and butter
12 issues like health care, education, jobs, economic
13 development, and here we are again dealing with an issue
14 that's not going to help one cent or one penny all
15 Texans to better their life, and for that reason, I'm
16 voting against Senate bill 362, which ought to be named
17 the Voter Suppression Bill. Thank you.

18 LIEUTENANT GOVERNOR DEWHURST: The Chair
19 recognizes Senator Whitmire to speak against the bill.

20 MS. WHITMIRE: Thank you, Mr. President,
21 members. Thank you, Senator Hinajosa for pointing out
22 that Senator Williams only mentioned allegations, and
23 it's amazing to me that if this is such a prevalent
24 problem that you have to go take a senator from the
25 Woodlands who borders Harris County with its hundreds of



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1 thousands of voters and has to go to south Texas to try
2 to find some allegations of voter fraud. That, in
3 itself, I think, makes the case that you have to really
4 search long and hard for instances.

5 It's also, as Senator Williams, in his
6 allegations, pointed out the test that I give to not
7 only my decisions as a public official but even in my
8 personal life. What is the greater good? If you wanted
9 to assume Senator Williams was correct and he found
10 three cases in deep south Texas, what is the greater
11 good, to address that in a fashion that the proponents
12 would have or is the greater good is to not set up
13 obstacles that we know will exist for people to vote.

14 When I complimented the Senate last Wednesday
15 morning after our marathon session, I mentioned the
16 decorum, the respect for one another that had been
17 demonstrated. Again, it's present today, but members,
18 that cannot overshadow the fact that this is a bad time
19 to be debating a really bad, bad, bad piece of
20 legislation, maybe the all time worst legislation in
21 terms of one that does so little for so few and harm to
22 so many.

23 I'm also struck by the attitude of some of my
24 colleagues. Let's just get this behind us. And in
25 fact, I would name this bill, Can We Just Get Behind --



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1 Can't We Just Get This Behind Us Act of 2009. It barely
2 beat out the title of the bill or the Hard to Vote Act
3 of 2009.

4 I cannot stand and let you just get it behind
5 us because we've heard credible testimony that three to
6 four percent of eligible voters will not be able to cast
7 their vote next election.

8 Well, let's assume it's just one percent, Sara
9 Duncan, or how about one person? Troy Fraser did an
10 excellent job the other night of talking about how
11 sacred the ballot box is, and we all join him in that
12 respect. But it is so sacred that now we're about to
13 tamper with the system that's going to disenfranchise
14 others.

15 I would ask the proponents just for a moment,
16 just for a moment, assume that we're right and you're
17 wrong, just absorb that for a minute, and if you even
18 want to go into the discussions and assume Tommy
19 Williams' allegations are going to be prosecuted and
20 punished, which I think he made the point that the
21 system is working pretty good, but what if the next
22 election day, there's someone in one of your districts
23 attempts to vote, if it's one person, and that sacred
24 process of voting is prohibited because of what we're
25 doing today?



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1 You know, I've heard folks talk about they
2 would rather ten guilty murderers go free than execute
3 one innocent man or woman. I was thinking about that
4 last night. I believe whatever allegations of fraud
5 that you can come up with cannot make the case to make
6 major obstacles, and I think part of the problem is some
7 of my colleagues don't really understand how difficult
8 it's going to be. You've not campaigned in communities
9 that are not as organized as maybe your life. I have
10 knocked doors, talked to voters. They didn't know how
11 they were going to get a ride to the polls; didn't know
12 if they were going to feel like it. Been doing this for
13 50, 60 years, and now for the first time, we put a new
14 responsibility on them.

15 Members, we have a responsibility, if it's
16 going to disenfranchise just one person, to fight this
17 really bad, bad, bad bill. And I respect Senator
18 Fraser's intent, but Troy, we disagree on the method.

19 What I don't understand, if you really think
20 there's fraud and you continue to make allegations, I
21 don't think you have proven your case, but let's just,
22 for the sake of the conversation, you believe there's
23 fraud, you're worried about, as you mentioned the other
24 night, you voting and then your brother coming back 30
25 minutes later and voting with your card.



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1 First of all, precinct judges, election judges
2 have the power of the district judge. They can have the
3 person arrested at that moment. What I don't understand
4 is why you address it with this bill instead of making
5 it a criminal justice issue. No one in this body
6 hesitates to address criminal acts by, one, enhancing
7 the penalties or creating a new offense. I just don't
8 understand why any of your witnesses did not address it
9 as a criminal justice issue. They didn't do it in
10 Indiana, they didn't do it in Georgia. Even our Harris
11 County Prosecutor, Rosenthal, who was so aggressive
12 until he was disgracefully run off, there's no instance
13 of voter fraud in Harris County that's been proven up.

14 The gentleman the other day was talking about
15 mail-in ballots. The Attorney General, our own Attorney
16 General, after spending 1.4 million and spending over a
17 year looking at it, came up with 26 cases. 18 of them
18 were mail-in ballots. Senator Fraser, you haven't
19 touched that top side or bottom, and because you haven't
20 addressed it as a criminal justice issue and tried to
21 enhance the penalties, I'll show you how you should have
22 handled it. This afternoon, in Administration, we're
23 going to hear a Zaffirini bill that's going to make
24 parking in handicap zone twice the current penalty.
25 We're going to double the fines if you park in a



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1 handicap zone. That's the way senators address crimes
2 and illegal acts. They don't come up with some civil
3 voting procedure that is going to make it difficult for
4 people to go cast that precious vote that Senator Fraser
5 talked about.

6 I can only conclude, because you haven't dealt
7 with it by enhancing the penalty or creating a new
8 offense, like we do on other illegal acts, that it's
9 pure politics, and let me suggest, Senator Fraser, that
10 it's bad politics, and I believe, I believe it's going
11 to backfire on you. I think this is a political bill
12 for years to come, will backfire on the proponents, and
13 let me just go ahead and put this on the table. I think
14 it's largely being done so some communities can think
15 they're getting after undocumented citizens. It's not
16 mentioned in many of the debate conversations, but I
17 listen to talk shows, I read comments, I get my share of
18 letters. There's a misconception that's being
19 encouraged by this legislation that undocumented
20 citizens are voting. It does not occur. You can't find
21 the instance. Those folks don't want nothing to do
22 about the ballot box, but this is largely driving it.

23 Let me close by saying the real sad note,
24 Senator Fraser, is if we had not changed the rules of
25 this body, we would not even be having this



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1 conversation. This is a great body. If we had not
2 changed the rules to make this the priority that doesn't
3 exist, we wouldn't even be having this discussion.

4 LIEUTENANT GOVERNOR DEWHURST: It's my
5 intent to go to Senator Fraser to close, but I just want
6 to make sure, is there anyone else who wishes to speak?

7 There not being anyone else who wishes to
8 speak the Chair recognizes Senator Fraser to close.

9 SENATOR FRASER: Thank you, members.
10 This actually has been a very interesting issue for all
11 of us. I think it's obvious that there's people in this
12 body that feel very strongly on both sides of this
13 issue, and I respect that. I don't think there's any
14 point that I felt that anyone who is in opposition to my
15 views ever was disrespectful to my views.

16 We have, as we do on all issues, we have the
17 right to disagree, and to that point, I think there's a
18 lot of pieces of legislation that move the legislature,
19 Senator Ellis, that I question why are we taking time to
20 do this, but that usually is my opinion and the person
21 laying it out feels very passionate that we should be
22 doing it.

23 Yes, we've taken some time in debating this,
24 and I think I would make the point that most of the
25 questions and the time was taken by the opposition, but



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1 the opposition on any bill has the right to do that, and
2 I respect that and would never, ever try to deny someone
3 their ability to do this, but we also have to recognize
4 that we are sent down by our voters, we were sent down
5 by the people of this state to make sure that what we're
6 doing down here protects those rights that they're
7 either guaranteed by the constitution or the laws that
8 we pass, and we have an obligation for that.

9 This issue, I believe, strives to that very
10 thing that we were sent down here to do, and I read this
11 earlier, but Steve Woolens, who was my chairman when I
12 was in the house. Steve Woolens was a Democratic
13 representative from Dallas, and he stated, and I think
14 it is the essence of what we're talking about, the
15 ability to cast a vote and have our vote counted is the
16 bedrock of our Democracy.

17 We must do everything possible to ensure the
18 sanctity of the vote of this state, which leads us to
19 the point, Dean, Senator Whitmire was asked earlier how
20 did we get to the point of talking about this bill,
21 Senate bill 362, it's not rocket science. It is not a
22 complicated issue. It's a very simple concept.

23 My goal, in laying out Senate bill 362, is
24 very simple. The goal is to make sure that every person
25 arriving at a polling site is the same one who is named



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1 on that voter list; that you are who you say you are. I
2 believe Senate bill 362 makes voting easy. A voter
3 showing up can either show a photo identification or two
4 non photo ID's, including even an electric bill or a
5 library card.

6 Even if voters can't verify their identity,
7 they're still going to be allowed to cast a provisional
8 ballot. Every person walking in to the polling place
9 will allow -- be allowed to vote. No one will leave not
10 being able to cast a ballot.

11 Senator Ellis, I would -- I would raise the
12 issue that if we go back and look at the polling that
13 has been done on this issue, there have been multiple
14 polls that have been done. The one obviously I like
15 best is the one that's most favorable. The Rasmussen
16 poll in October of this year showed that 88 percent of
17 Texans, people in Texas, not one political party or
18 other, 88 percent of Texans, when they're asked the
19 question, "Should you have to show identification when
20 you vote," 88 percent of the public said, "Yes, I agree
21 with that concept."

22 Now the interesting thing is that of those 88
23 percent, 80 percent of them identified themselves as
24 Democrats. There's been two other polls; the latest
25 poll this last weekend by the University of Texas showed



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1 that in their poll, 69 percent, and even though that's
2 less than 88, 67 percent, if I told you two-thirds of
3 your voters was for something, I would suspect you would
4 be for that.

5 Now I've been doing my own personal poll. You
6 asked me the question have I been visiting with other
7 people, and more specifically, have I visited with
8 African Americans or Hispanics about this. I've
9 actually been doing my own polling on this for a long
10 time, actually going back a couple years, because we had
11 this bill two years ago, and any time I'm getting a
12 chance where I can engage someone in conversation, I ask
13 them the question, it's a very simple question, "Should
14 you have to show identification to verify you are who
15 you say you are whenever you have to vote?"

16 Since I've been asking that question of all
17 people that I've engaged, I am yet to have a single
18 person tell me that they disagree with that.

19 Now obviously there's some pressure on the
20 fact that I'm the one asking the question, but I find it
21 interesting that if a person, if you ask them should
22 they, you know, do that, no matter who the person is,
23 they go, "No, I think that's fair. I think that
24 someone, you know, if they're going to be voting, should
25 have to prove they are who they say they are."



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1 So Senator Ellis, I would make the point that
2 of the people that are opposed to this, I know there's
3 12 in this room and probably some on the other side, but
4 if 88 percent of the people in the state of Texas, I'm
5 assuming that a bunch of those live in your district,
6 then I would make the case I'm on the side of the people
7 in this case.

8 The voter ID bill has been passed, photo ID
9 bill has been passed, strict photo identification in two
10 states. There's 24 states that have some form of photo
11 identification, but the two that are the most strictest
12 are Indiana and Georgia. Indiana's case was put into
13 place. They've had two election cycles in '06 and '08.
14 Since it was put in place, it's gone all the way up to
15 the Supreme Court.

16 The Supreme Court, the confirming -- the
17 opinion on this was written by John Paul Stevens, which
18 generally is a left-leaning, more liberal judge, and he
19 wrote the opinion, the majority opinion confirming the
20 Indiana law 6 to 3.

21 The Georgia case that was passed again went
22 all the way through the -- being approved by the
23 Department of Justice and has been confirmed at every
24 level, and both of those have gone through the last
25 election cycle. So I guess the question I would ask,



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1 did someone say is this going to suppress vote. Both
2 Indiana and Georgia have found that, even Indiana,
3 through two election cycles, not only did it not
4 suppress vote, it actually encouraged voters that they
5 felt better that their vote was going to be counted and
6 not diluted by someone that was voting illegally, that
7 the vote count in both of those states went up. And
8 actually in the last election, in 2008, Georgia had the
9 second largest increase in Democratic voters in the
10 United States, much more than the surrounding states
11 that did not have a like ID law in place.

12 Indiana was the largest increase in Democratic
13 voters in the entire United States. The total increase
14 they had was 6.7 increase, almost double the increase of
15 the adjoining state, which was Illinois, where the
16 president nominee was from.

17 I'm going to give a couple examples here, just
18 to make sure, and I hate that the press missed all the
19 testimony we had the other night when we stayed here
20 through 28 hours, and most of the press went home in the
21 middle of the night so you missed a lot of the very
22 important testimony, and I think the one that was
23 probably the most compelling, or I thought was telling,
24 was the testimony of the Secretary of State, when they
25 were talking about the way that the Texas law works in



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1 Texas.

2 Just clarifying, making sure you understand
3 that if someone walks into a polling place and they have
4 a voter registration certificate, that doesn't make any
5 difference whether it's their's or their brother's or
6 their wife's or the guy down the street, or someone
7 that's died, as long as they have a voter registration
8 certificate, current Texas law says, "On offering to
9 vote, a voter must present a voter registration
10 certificate to the election officer. On presentation of
11 the certificate, an election officer shall determine
12 whether the voter's name is on the certificate." They
13 check the names there, and if it's the proper precinct.
14 If you meet those two parameters, they hand you a ballot
15 and you go and vote.

16 In any circumstance, and the question I asked
17 the Secretary of State, if I walked into the voting
18 booth with my brother's registration card and I was
19 voting, I had already voted and I was now going to vote
20 with my brother's card, Steve, could they stop me from
21 voting, and the answer was no, there is not the ability
22 under current law to do that.

23 The question was raised about the ability to
24 convict. I would make the point that under current law,
25 not only is it virtually impossible to identify that



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1 someone is voting illegally, but it is much harder to
2 convict that person. The testimony earlier we
3 referenced the District Attorney, Rene Guerra, out of
4 Hidalgo County, the D.A., Rene Guerra, here's his exact
5 quote that he gave to the -- I believe this was to the
6 McAllen paper. No, I'm sorry, it was to the Rio Grande
7 Guardian paper. He says, he said, "Voter fraud is
8 nearly impossible to prove. Since losing a county
9 ballot tampering case in '78, Guerra has shied away from
10 taking on new cases involving election irregularities
11 even though all the cases that Senator Williams just
12 laid out came from that county and has been reported for
13 years."

14 It goes on to say, "To convince a jury these
15 days, you almost need a videotape of someone voting
16 illegally, the District Attorney said." The article
17 goes on to say that he has lost his appetite to
18 prosecute.

19 So in trying to say that Texas doesn't have a
20 problem, I would greatly disagree. I think we've got a
21 huge problem, because not only do we not have the
22 ability to identify someone, we don't have the ability
23 to prosecute it, and it actually goes much further than
24 that.

25 Mary Ann Collins from Plano, 70 year old woman



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1 stayed here all night the other night in order to come
2 up here and give us her testimony about the fact that
3 she was working as a poll worker. She had watched
4 someone vote, and a few hours later, she had noticed
5 someone else, and I think she had seen her with a bright
6 hat and she recognized this was an outstanding, or
7 someone she was easy to identify. She saw the woman
8 come back in a couple hours later to vote again with a
9 different card. She went to the election judge to
10 notify the judge that that woman was voting illegally,
11 and the election judge said, "Sorry, there's nothing we
12 can do to stop them."

13 To assume there is not voting fraud in Texas
14 is really almost laughable. To assume that we can
15 prosecute someone for voting fraud is difficult.

16 In affirming the Supreme Court case, John Paul
17 Stevens made a couple of observations about voting. He
18 talks about the fact that the actual act of voting is a
19 burden but it's a burden that everyone accepts. The
20 burdens of that are arising from life's vagaries,
21 however, are neither serious nor so frequent as to raise
22 a question about the constitutionality of the Indiana
23 law. The availability of the right to cast a
24 provisional ballot provides an adequate remedy for
25 problems of this character. For most voters who need



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1 the inconvenience of making a trip to the Bureau of
2 Motor Vehicles, gathering required documents and posing
3 for a photograph does not qualify as a substantial for
4 the right to vote or even represent a significant
5 increase over the usual burdens of voting.

6 The last example I will give you, and I hope
7 this is one that hits close to home, is someone raised
8 the example, or the issue -- well, there's a few here
9 and a few there, but we have an example actually here
10 sitting with us in this body that Mike Jackson, when he
11 was elected in Houston in 1988, won by seven votes. I
12 went back and looked at the records of the voting
13 irregularities in Houston, the number of dead people
14 that have voted, the number of complaints that have been
15 made, and the thought comes to my mind, if seven people
16 had cheated during his election, it would have changed
17 history. Mike Jackson would not be with us here today;
18 four people have flipped it. Four people could have
19 changed history and changed his ability to serve as he
20 has in the Texas Senate. To assume that someone
21 cheating in an election is not important, the best
22 example is right here, is that there's been a lot of
23 elections, especially a primary, and more especially in
24 rural areas, where you have a county commissioners race,
25 one vote makes a huge difference, and if someone can



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1 cheat on that one vote, it could impact the election.

2 The dangers of voting fraud has always
3 enthreatened the integrity of the electoral process for
4 the entire history of the United States. I believe that
5 threat continues today. In quoting again as I did in my
6 opening comments, the 2005 bipartisan Carter/Baker
7 Commission reaffirms the dangers when they say elections
8 are at the heart of democracy; Americans are losing
9 confidence in the fairness of elections. And while we
10 do not face a crisis today, we need to address the
11 problem of our electoral system.

12 Members, I would be concerned if I thought
13 this bill in any way would suppress turnout, but I also
14 believe it does not do that. It just protects
15 legitimate vote. It offers multiple ways to prove you
16 are who you say you are before you cast your vote.
17 Thank you.

18 LIEUTENANT GOVERNOR DEWHURST: Senator
19 Fraser, I'm going to recognize you for a motion to move
20 Senate bill 362 to engrossment.

21 SENATOR FRASER: Members, I would now
22 move Senate bill 362 would be passage as amended, would
23 move its passage to engrossment.

24 LIEUTENANT GOVERNOR DEWHURST: Members,
25 you've heard the motion by Senator Fraser. The



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1 Secretary will call the role.

2 SECRETARY: Averitt, Carona, Davis.
3 Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos,
4 Harris, Hegar, Hinajosa, Huffman, Jackson, Lucio,
5 Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro,
6 Shapleigh, Uresti, Van de Putte, Watson, Wentworth,
7 West, Whitmire, Williams and Zaffirini.

8 LIEUTENANT GOVERNOR DEWHURST: Members,
9 there being 19 "I's" and 12 "Nay's", Senate Bill 362, as
10 amended, is passed to engrossment.

11 Senator Duncan, for what purpose?

12 SENATOR DUNCAN: Just for a brief thank
13 you for our staff. Mr. President, the other night, we
14 stayed up, I think, a marathon 23 hour session, and at
15 the end, I think was a little bit too tired to remember
16 to thank those who really made this work, and I think
17 all of us understand the importance of this secretary of
18 the Senate and our Sergeant at Arms and how nice of a
19 job they do for us, and all of their staff, and they
20 stayed up here with us, and at times, it was a little
21 testy, but they all performed in an outstanding fashion,
22 so I just want to take this brief moment to say
23 publicly thank you, although I know we all understand
24 the importance of their jobs, so let's give them an
25 ovation.



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1 (Clapping.)

2 LIEUTENANT GOVERNOR DEWHURST: Members,
3 Senator Shapleigh moves that the comments that have been
4 made during the floor debate and the exhibits from
5 Senator Williams be included in the record, and the
6 affidavits, excuse me, the affidavits referenced by
7 Senator Williams be included in the record.

8 You've heard the motion by Senator Shapleigh.
9 Is there any objection from any member?

10 The Chair hears none and the motion is
11 adopted. It's my intention, we have four more -- we
12 actually have five bills that are eligible. I don't
13 think they'll take much time, but I'd like to go ahead
14 and address those.

15 Senator Van de Putte, are you ready on --
16 the Chair recognizes Senator Van de Putte for a motion
17 to suspend the regular order of business to take up and
18 consider a committee substitute to Senate bill 90.

19 SENATOR VAN DE PUTTE: I'm sorry, is that
20 Senate bill 90?

21 LIEUTENANT GOVERNOR DEWHURST: Yes,
22 please.

23 (End of CD.)
24
25



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1 IN THE COUNTY OF TRAVIS)

2 STATE OF TEXAS)

3 I, Lynne Rodriguez, Certified Shorthand Reporter in
4 and for the State of Texas, hereby certify to the
5 following:

6 That the CD entitled, "2009 (81R) SB 362,
7 Senate Flr Debate, 2nd Reading,"
8 was transcribed at the request of Anne Wilson, 209
9 West 14th Street, Attorney General's Office, Austin,
10 Texas 78701, and the amount due is \$_____.

11 That the aforementioned CD was transcribed
12 to the best of my ability to hear and understand the
13 CD;

14 That the transcript was submitted by
15 E-trans on April 23, 2012, to Anne Wilson, 209 West
16 14th Street, Attorney Generals' Office, Austin,
17 Texas 78701;

18 I further certify that I am neither
19 counsel for, related to, nor employed by any of the
20 parties or attorneys in the action in which this
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24 Certified to by me, this 23rd day of
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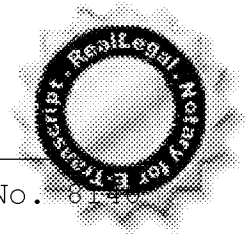
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